

**STATE COUNCIL ON
DEVELOPMENTAL
DISABILITIES
AREA BOARD VII**



**BOARD
MANUAL**

STATE COUNCIL ON DEVELOPMENTAL DISABILITIES AREA BOARD VII – MEMBER MANUAL

Section 1. Board Member Information

- ❖ Area Board location Map
- ❖ SCDD Vision Statement & Mission Statement
- ❖ Who We Are/What We Do/Background
- ❖ Lanterman Act (WIC§ 4548(d)(a))
- ❖ Lanterman Developmental Disabilities Services Act
- ❖ What is a Disability
- ❖ The Law Gives You Rights
- ❖ Special Education Resource List

Section 2. Area Board VII Governing Information

- ❖ Guide to the Bagley Keene Open Meeting Act
- ❖ Bagley Keene Open Meeting Act Government Code Sections 1120-11132
- ❖ California Fair Political Practices Commission – Ethics Orientation for State Officials – Area Board VII
- ❖ Area Board VII By-Laws
- ❖ Appointment of Authorized Representative
- ❖ Important Words to Know About How Meetings are Run
- ❖ Board Member Code of Ethics
- ❖ Nepotism in Employment Policy

Section 3. State Council on Developmental Disabilities

- ❖ SCDD 2012-2016 State Plan
- ❖ Services & Supports for Individuals with Developmental Disabilities in California
- ❖ The CA Service Systems for Persons with Developmental Disabilities (Side 2) Acronyms – CA Service System for Person w/ DD
- ❖ Glossary of Terms, Phrases & Acronyms Used in the CA Disability Svc. Systems

Section 4. Statewide Self-Advocacy Network

- ❖ **Statewide Self-Advocacy Network (Vision/Mission/Values)**
- ❖ **Statewide Self-Advocacy Network Introduction/Purpose/Background**

Section 5. Employment First

- ❖ **Executive Summary August 2011**

Section 6. Legislation

- ❖ **Overview of Legislative Process**
- ❖ **The Life Cycle of Legislation**
- ❖ **The Legislative Budget Cycle**

Section 7. Quality Assurance

- ❖ **Family/Guardian Survey**

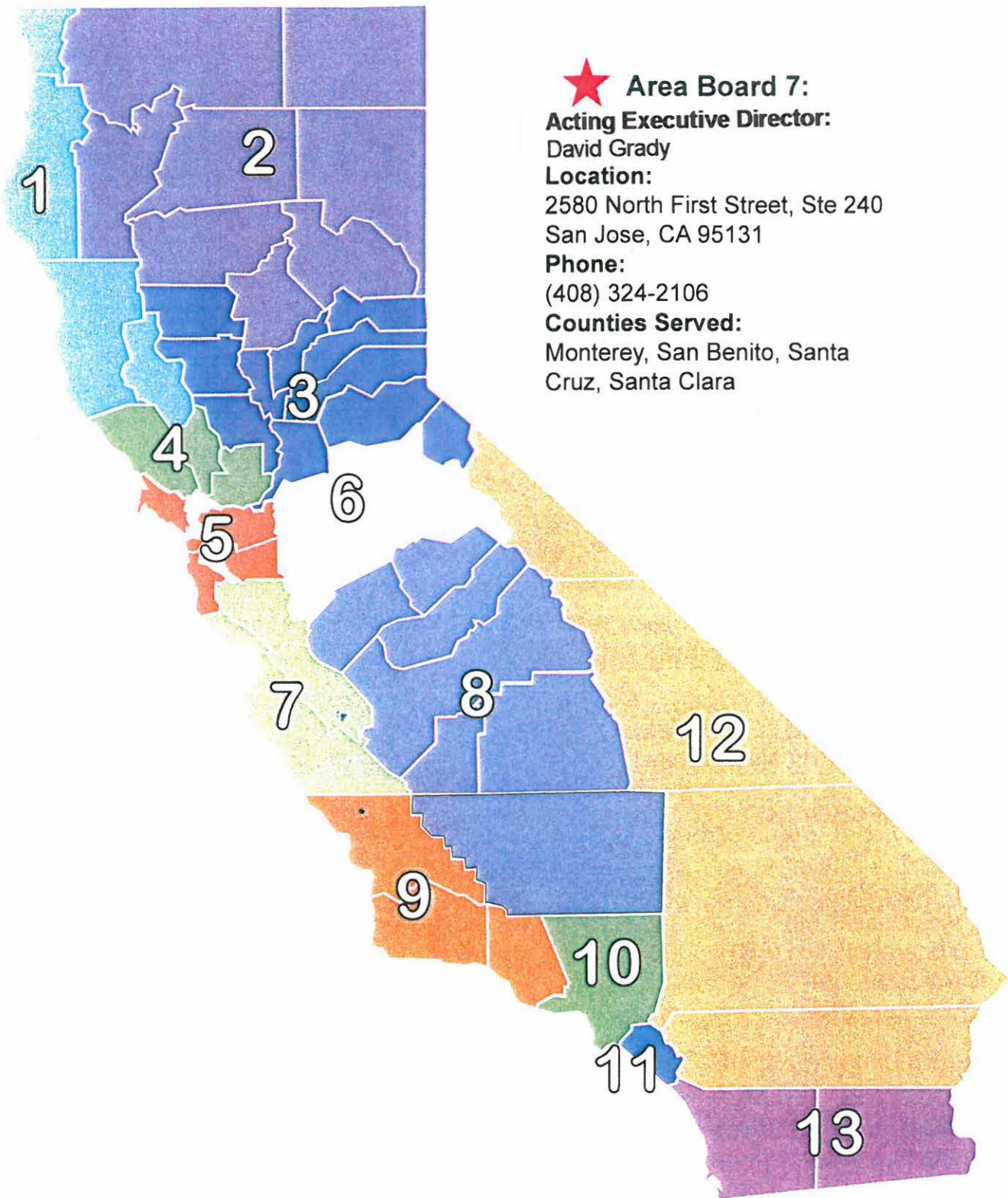
Section 8. Behavior Analyst Certification Board (BACB)

- ❖ **BACB Guidelines**

Section 9.

Section 10.

Section 1. Board Member Information



AREA BOARD LOCATION

SCDD Vision Statement

Californians with developmental disabilities are guaranteed the same full and equal opportunities for life, liberty, and the pursuit of happiness, as all Americans.

SCDD Mission Statement

The Council advocates, promotes and implements policies and practices that achieve self-determination, independence, productivity and inclusion in all aspects of community life for Californians with developmental disabilities and their families.



AREA DEVELOPMENTAL DISABILITIES BOARD VII

2580 North First Street, Suite 240
San Jose CA 95131-1015

(408) 324-2106
(FAX) (408) 324-2108
e-mail ab7@scdd.ca.gov

Who We Are

Area Board VII serves Santa Clara, Santa Cruz, San Benito and Monterey counties. Board members include individuals with developmental disabilities or their parents/guardians and representatives of the general public.

Area Board VII employs an Executive Director, two Community Program Specialists, a Quality Assurance Coordinator and an Office Technician.

What We Do

- Protect and advocate for the rights of all individuals with developmental disabilities in the Area Board VII region;
- Educate individuals with developmental disabilities and their families on their rights under federal, State and local law;
- Review the policies and procedures of publicly funded agencies that provide services needed by individuals with developmental disabilities to determine if they are meeting statutory obligations;
- Assist individuals in obtaining needed services;
- Conduct Quality Assurance activities through the National Core Indicators (NCI) project and the Quality Management System of the Bay Area Project;
- Encourage and assist in the establishment or strengthening of self - advocacy organizations led by individuals with developmental disabilities.

Background

Area Board VII is one of 13 boards established by Division 4.5 of the California State Welfare Institutions Code. In partnership with the State Council on Developmental Disabilities, Area Board VII is a key member in the development of the State Plan; a document which defines the vision and services supporting individuals and families in California.

The California Legislature determined the legal, civil and services rights of persons with developmental disabilities could not be adequately guaranteed throughout the state, and the State Plan could not be implemented, unless monitoring responsibility was established on a regional basis through the Area Boards.

LANTERMAN ACT

WIC § 4548 (d) (a) The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the legal, civil and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative.

State of California

Department of Developmental Services

Lanterman Developmental Disabilities Services Act

Print-Friendly Version

**CALIFORNIA WELFARE AND INSTITUTIONS CODE
DIVISION 4.5. SERVICES FOR THE DEVELOPMENTALLY DISABLED
CHAPTER 2. STATE COUNCIL ON DEVELOPMENTAL DISABILITIES
ARTICLE 6. AREA BOARDS ON DEVELOPMENTAL DISABILITIES**

4543. (a) Because of the vast size, complexity, and diversity of the State of California, the Legislature finds that the planning activities of the State Council on Developmental Disabilities depend upon the direct involvement of local representatives familiar with the structure and operation of services and programs for persons with developmental disabilities. The Legislature further finds that the legal, civil, and service rights of persons with developmental disabilities cannot be adequately guaranteed throughout the state, and the state plan cannot be implemented, unless monitoring responsibility is established on a regional basis through area boards on developmental disabilities.

(b) For administrative purposes and to ensure compliance with federal and state laws, the area boards shall be attached to the state council.

4544. The area boards in existence as of January 1, 2003, shall continue to exist, within the same geographic regions of the state after January 1, 2003, but shall thereafter be constituted and shall operate according to this article.

4545. The State Council on Developmental Disabilities shall periodically conduct a thorough review of the geographic boundaries served by area boards to determine whether existing area board boundaries should be changed, or additional area boards should be established to more effectively implement this division. In conducting this review, the state council shall seek input from area boards, persons with developmental disabilities, family members, service providers, advocates, and other interested parties. Prior to recommending the establishment of new geographic boundaries, the state council shall hold a public hearing within any existing area board geographic area affected by the proposed change. The state council shall submit to the Governor and the Legislature any recommendations for changes in area board boundaries or recommendations that additional area boards be established. Any area board established after January 1, 2003, shall nominate a member to be appointed by the Governor as a voting member of the state council pursuant to Section 4521.

4546. After January 1, 2003, area boards shall be comprised as follows:

(a) For areas consisting of one to four counties, the area board shall consist of a total of 12 voting members appointed by the governing bodies of the counties, each county appointing an equal number of voting members, and five voting members appointed by the Governor.

(b) For areas consisting of five to seven counties, the area board shall consist of two voting members appointed by the governing body of each county, and five voting members appointed by the Governor.

(c) For areas consisting of eight or more counties, the area board shall consist of one voting member appointed by the governing body of each county, and five members appointed by the Governor.

Of the members first appointed, five shall serve for one year, five shall serve for two years, and the remaining members shall serve for three years. Subsequent members shall serve for three years. In counties with a population of more than 100,000, no member shall serve more than two consecutive three-year terms.

(d) The governing bodies of the counties in each area shall select their appointees from among the following groups, and, to the extent feasible, in the following proportions:

(1) Sixty percent from persons with developmental disabilities or the immediate relatives, guardians, or conservators of these persons.

(2) Forty percent from representatives of the general public.

(e) The appointments made by the Governor shall meet the requirements of paragraph (1) of subdivision (b) of Section 4521.

(f) (1) Prior to making their appointments, the Governor and the governing bodies of counties shall request recommendations from professional organizations, from organizations within the area representing persons with developmental disabilities, and from organizations and agencies within the area that deliver services to these individuals.

(2) In making their appointments, the Governor and the governing bodies of counties shall appoint persons who have demonstrated interest and leadership in human service activities.

(g) (1) In order to prevent any potential conflicts of interest, voting members of area boards shall not be employees of a state, local, or private agency or facility that provides service to a person with a developmental disability, or be members of the governing board of any entity providing this service, when the service is funded in whole or in part with state funds.

(2) For purposes of this section "employees of a state, local, or private agency or facility that provides services to a person with a developmental disability" shall not be deemed to include any of the following:

(A) A parent, relative, guardian, or conservator who receives public funds expressly for the purpose of providing direct services to his or her child, relative, ward, or conservatee, respectively, who is a person with a developmental disability.

(B) A person with a developmental disability who receives employment services through a provider receiving state or federal funds.

(C) A person who serves as a member of the state council.

(h) The Governor shall give consideration to the relative populations of the counties within the area in selecting appointees to the area boards.

(i) A member may continue to serve following the expiration of his or her term until the Governor or appointing body of the county appoints that member's successor. The state council shall notify the Governor or the appointing body of the county regarding membership requirements of the area boards and shall notify the Governor or the appointing body of the county at least 60 days before a member's term expires, and when a vacancy on an area board remains unfilled for more than 60 days.

(j) All members of the area board shall be residents of the area.

(k) The members of an area board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties as

members of the board or of committees established by the board.

4547. (a) Each area board shall meet at least quarterly, and on call of the board chairperson, as often as necessary to fulfill its duties. All meetings and records of the area board shall be open to the public.

(b) (1) Each area board shall, by majority vote of the voting members, elect its own chairperson from among the appointed members who are persons with developmental disabilities, or parents, immediate relatives, guardians, or conservators of these persons, and shall establish any committees it deems necessary or desirable. The board chairperson shall appoint all members of committees of the area board.

(2) An area board may call upon representatives of all agencies receiving state funds, for assistance and information, and shall invite persons with developmental disabilities, their parents, immediate relatives, guardians, or conservators, professionals, or members of the general public to participate on area board committees.

(3) When convening any task force or advisory group, the area board shall make its best effort to ensure representation by consumers and family members representing the community's multicultural diversity.

4548. (a) Area boards shall locally assist the state council with the implementation of subtitles A and B of Title I of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).

(b) Area boards shall protect and advocate the rights of all persons in the area with developmental disabilities.

(c) Area boards shall conduct capacity building activities and provide advocacy for systemic change.

(d) (1) The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative.

(2) Where there is no guardian or conservator, the person's choice, if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family member, or a volunteer selected by the area board. In establishing these preferences, it is the intent of the Legislature that parents or involved family members shall not be required to be appointed guardian or conservator in order to be selected. Unless the consumer expresses otherwise, or good cause otherwise exists, the request of the parents or involved family members to be appointed the representative shall be honored.

(3) Where appropriate pursuant to this section, the area board shall appoint a representative to advocate the rights and protect the interests of a person residing in a developmental center for whom community placement is proposed pursuant to Section 4803.

(4) The area board shall identify any evidence of the denial of

these rights, shall inform the appropriate local, state, or federal officials of their findings, and shall assist these officials in eliminating all forms of discrimination against persons with developmental disabilities in housing, recreation, education, health and mental health care, employment, and other service programs available to the general population.

(e) Area boards shall conduct, or cause to be conducted, public information programs for consumers, families, professional groups, and for the general public, to increase professional and public awareness of prevention and habilitation programs, and to eliminate barriers to social integration, employment, and participation of persons with developmental disabilities in all community activities.

(f) Area boards shall encourage and assist in the establishment or strengthening of self-advocacy organizations led by individuals with developmental disabilities.

(g) (1) To the extent that resources are available, area boards shall review the policies and practices of publicly funded agencies that serve or may serve persons with developmental disabilities, to determine if the programs are meeting their obligations under local, state, and federal laws. A regional center may notify the area board when the regional center believes a publicly funded program is failing to meet its obligations in serving persons with developmental disabilities. The regional center may provide the area board with a comprehensive summary of the issues and the statute or regulation alleged to be violated. If the area board finds that the agency is not meeting its obligations, the area board shall inform the director and the managing board of the noncomplying agency, in writing, of its findings.

(2) Within 15 days, the agency shall respond, in writing, to the area board's findings. Following receipt of the agency's response, if the area board continues to find that the agency is not meeting its obligations, the area board shall pursue informal efforts to resolve the issue.

(3) If, within 30 days of implementing informal efforts to resolve the issue, the area board continues to find that the agency is not meeting its obligations under local, state, or federal statutes, the area board shall conduct a public hearing to receive testimony on its findings.

(4) If the problem has not been resolved within 30 days following the public hearing, the area board may provide the state council with its findings and may request authorization to initiate legal action. An area board shall not initiate legal action without prior authorization from the state council. However, the area board may assist any other person, agency, or organization that may pursue litigation related to the area board's findings.

(5) The executive director of the state council shall review the findings developed pursuant to this subdivision and may conduct additional factfinding investigations. The executive director shall report his or her findings to the state council within 30 days and shall recommend a course of action to be pursued by the council, the area board, or other state administrative or legislative officials.

(6) The state council shall review the report of the executive director and shall take any action it deems necessary to resolve the problem. If the state council authorizes the area board to initiate legal action, the state council shall make legal assistance available to the area board pursuant to the legal services provisions of Public Law 106-402 (42 U.S.C. Sec. 15001 et seq.).

(h) Area boards shall encourage the development of needed services and supports of good quality that do not result in duplication, fragmentation of services, and unnecessary expenditures. Prior to providing additional funds for major expansion of existing programs,

creation of new programs, or establishment of pilot projects to test new methodologies of service delivery for persons with developmental disabilities within an area board catchment area, the department or regional center, as appropriate, shall consult with the area board regarding the appropriateness of those program developments.

(i) In carrying out their review functions, area boards shall solicit the advice of knowledgeable professionals, consumers, and consumer representatives about problems within the service delivery system in the region. In enacting this article, it is the intent of the Legislature that the area boards not duplicate the functions assigned to other agencies that are routinely responsible for monitoring, regulating, or licensing programs for persons with developmental disabilities. Area boards may call upon these agencies for information and assistance in order to carry out their responsibilities more effectively. Unless otherwise prohibited by law, these agencies shall provide information requested by the area boards, and shall cooperate fully in complying with all reasonable requests for assistance.

(j) (1) Area boards shall remain informed about the quality of services in the area, and shall inform appropriate state and local licensing agencies of alleged fire, safety, health, or other violations of legally established standards, in any facility providing service to persons with developmental disabilities, that may be brought to the attention of the area board.

(2) If an area board receives evidence of criminal misconduct by an individual or agency funded in whole or in part with state funds under this division, the area board shall immediately inform appropriate public safety agencies about the alleged misconduct.

(k) (1) Area boards shall cooperate with county coordinating councils on developmental disabilities, other regional planning bodies, and consumer organizations in the area. Area boards shall comply with the reasonable requests of these groups and may request the assistance of the groups in carrying out area board responsibilities.

(2) The governing body of any county within the area may request that the area board study or investigate programs in the county for persons with developmental disabilities. The area board shall cooperate with county governments to the fullest extent possible within the limitations of the resources of the board.

(l) Each area board shall submit to the state council a summary of its activities and accomplishments in the previous year. The state council, in consultation with area boards, shall determine the timing of, and format for, this summary.

(m) It is the intent of the Legislature that area boards shall maintain local discretion in conducting their advocacy activities. The state council shall not direct the advocacy activities of the area boards, except when specifically authorized by law, or when necessary to ensure compliance with federal requirements.

What is a developmental disability?

California law defines a developmental disability as a disability that starts before age 18, is expected to continue indefinitely, and is a "substantial disability" for that person.

The developmental disabilities for which you can receive regional center services are: cerebral palsy, epilepsy, autism, mental retardation, and other conditions closely related to mental retardation or that require similar treatment.

On August 11, 2003, the law that defines "substantial disability" was changed to say that the person must also have problems in at least three of these areas:

- Communication skills (receptive and expressive language)
- Learning abilities
- Self-care
- Mobility
- Self-direction
- Independent living skills, and
- Economic self-sufficiency

If you were eligible for regional center services before the law changed on August 11, 2003, the regional center must use the old definition to determine your eligibility now. You do not have to prove that you have problems in three of the areas listed above.

What does "substantial disability" mean?

Department of Developmental Services regulations define a substantial disability as "a major impairment of cognitive and/or social functioning." This means you can show that you are substantially disabled by a major impairment of either:

- Your cognitive functioning (your thinking, your intellect), or
- Your social functioning (how you relate to others).

You do not have to prove both.

Many people with autism, for example, have significant problems interacting socially. They may not have problems with their thinking and they may even score high on intelligence testing. But, if they prove that their social skills are significantly impaired by autism, they may be eligible for regional center services. According to the law, substantially disabling conditions require "interdisciplinary planning" and the "coordination of services" to help you "reach your maximum potential".



AREA DEVELOPMENTAL DISABILITIES BOARD VII

2580 North First Street, Suite 240
San Jose CA 95131-1015

(408) 324-2106
(FAX) (408) 324-2108
e-mail ab7@scdd.ca.gov

Area Board VII

www.scdd.ca.gov/Area_Board/Area_Board_7.htm
408.324.2106

Area Board VII, one of 13 boards under the State Council on Developmental Disabilities, serves Santa Clara, Santa Cruz, San Benito and Monterey counties. Area Board protects and advocates for the rights of individuals with developmental disabilities. We provide advocacy assistance to families which include education on rights, attending IEP and other special education related meetings and referring to additional resources as appropriate.

Disability Rights California *

www.disabilityrightsca.org
800.776.5746 / TTY 800.719.5798

Disability Rights California provides advocacy help for Californians with disabilities. Check out the "Resources and Publications" link (available in multiple languages) on their website – substantial amount of information on Special Education as well as other topics relating to individuals with disabilities. They co-wrote the Special Education Rights and Responsibilities Handbook which is available on their website in multiple languages and free of charge. Sign up for their newsletter!

Office of Clients' Rights Advocacy (OCRA) *

<http://www.disabilityrightsca.org/about/OCRA.htm>
408.374.2470

Office of Clients' Rights Advocacy (based at San Andreas Regional Center)
Rita Defilippis – Clients' Rights Advocate Attorney
E-mail: Rita.Defilippis@disabilityrightsca.org
Filomena Alomar - Assistant CRA
E-mail: Filomena.Alomar@disabilityrightsca.org

The Office of Clients' Rights Advocacy (OCRA) is part of Disability Rights California. OCRA has a Clients' Rights Advocate (CRA) at each regional center. The CRA helps protect regional center consumer's rights. OCRA is funded by the state Department of Developmental Services. In deciding whether OCRA can represent you directly, we will consider: The merits of your claim; Your ability to advocate for yourself; Other advocacy sources you could use; Whether your problem is related to your developmental disability; and availability of resources.

Wrightslaw

www.wrightslaw.com

Comprehensive website for parents, educators, advocates, and attorneys. Provides accurate, reliable information about special education law, education law, and advocacy for children with disabilities. Sign up for their newsletter!

Parents Helping Parents (PHP) *

www.php.com

855.727.5775 / 408.727.5775

Sobrato Center For Nonprofits-San Jose

1400 Parkmoor Avenue Suite 100

San Jose, CA 95126

Parents Helping Parents (PHP) strives to improve the quality of life for any child with any special need of any age, through educating, supporting and training their primary caregivers. Check out their upcoming events, iTech Center and sign up for their newsletter!

Council of Parent Attorneys and Advocates (COPAA)

www.copaa.org

COPAA's mission is to be a national voice for special education rights and to promote excellence in advocacy. Our primary goal is to secure high quality educational services for children with disabilities. Check out their list of resources as well as their attorney and advocate directory. Membership provides access to forums, tools, publications, etc.

California Department of Education (CDE) *

Procedural Safeguards and Referral Services

800.926.0648

Videophone Line 916.374.7182 (deaf/hard of hearing)

E-Mail: speceducation@cde.ca.gov

Provides technical assistance information and resources for parents, school districts, advocates, agencies and others of procedural safeguards regarding students between ages 3 and 21 with disabilities and their educational rights.

Santa Clara County Office of Education

Inclusion Support Warm Line

<http://www.sccoe.org/programs/inclusion-collaborative/warmline.asp>

408.453.6651

E-mail: inclusionwarmline@sccoe.org

The Inclusion Support "Warm Line" is a free support, information and referral service regarding the inclusion of children with special needs and disabilities Santa Clara County. A service of the Inclusion Collaborative, the Warm Line invites parents and early education providers to email or call and leave a message at any time. The call will be returned within one working day by a Warm Line specialist. The specialist is a parent of a child with special needs and has over five years of experience working with parents and providers in special education and general education.

Special Parents Information Network (SPIN) *

<http://www.spinsc.org/>

South Santa Cruz County: 831.722.2800

North Santa Cruz County: 831.423.7713

San Benito County: 831.537.8639

SPIN offers the following services: Information on and referral to local resources for children with special needs; Mentor program for parents who want support and information from another parent who has a child with a similar disability or has experience navigating the system of services; Support Groups for both English and Spanish speaking parents; Educational workshops and training on various topics to educate parents and professionals to better meet and advocate for a child's needs at home, school and in the community; IEP Clinics individual assistance with issues regarding children's Individualized Educational Plan (IEP); Networking opportunities through support groups, events, workshops and training, and parent-to-parent support; and Resource Library of books, periodicals, journals, brochures and videos on various special needs topics. Sign up for their newsletter!

Office of Administrative Hearings (OAH) *

<http://www.dgs.ca.gov/oah/SpecialEducation.aspx>

916.263.0880

The Office of Administrative Hearings contracts with the California Department of Education to handle the special education due process hearing and mediation program. Approximately 96% of their Special Education cases are resolved without the need for hearing and decision. In the small percentage of cases in which a solution is not found, a full hearing is held before a different administrative law judge, who decides the case and issues a final written decision. A list of low cost or free advocates/attorneys and information about special education due process are available on their website.

Assistive Technology Network (AT Network) *

www.atnet.org

800.390.2699 / TTY 800.900.0706

E-mail: info@atnet.org

Assistive Technology (AT) is defined as any device, gadget, hardware or software used by a person with a disability to do things for themselves that might otherwise be difficult or impossible to do because of their disability. For a student this may range from calculators to communication systems. If a child already has an IEP, planning for Assistive Technology should be determined along with any other special education needs as part of the IEP process. This can include planning for use of the Assistive Technology outside of the school setting (example: home) if its use supports the student's receiving free appropriate public education. The AT Network is dedicated to expanding the accessibility of tools, resources and technology that will help increase independence, improve personal productivity and enhance the quality of life for all Californians. Membership is free and offers online access to AT Network trainings, referrals, forums, job postings, funding opportunities, etc.!

Community Alliance for Special Education (CASE) *

www.caseadvocacy.org

415.431.2285

E-mail: info@caseadvocacy.org

CASE advocates offer parents and community professionals free technical assistance on special education rights and services as well as training on special education. They co-wrote (with Disability Rights California, formally Protection and Advocacy, Inc) the Special Education Rights and Responsibilities Handbook.

United States Department of Education – Office of Civil Rights (OCR) *

<http://www2.ed.gov/about/offices/list/ocr/504faq.html>

Office for Civil Rights, San Francisco Office

415.486.5555

E-mail: OCR.SanFrancisco@ed.gov

OCR enforces several Federal civil rights laws that prohibit discrimination in programs or activities that receive Federal funds from the Department of Education. These laws prohibit discrimination on the basis of race, color, and national origin, sex, disability, and on the basis of age. These laws extend to all state education agencies, elementary and secondary school systems, colleges and universities, vocational schools, proprietary schools, state vocational rehabilitation agencies, libraries, and museums that receive U.S. Department of Education funds. If you wish to file a complaint, you may do so either through mail, E-mail, or online.

* Denotes resources may be available in additional languages

Section 2. Area Board VII Governing Information

GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT
(Includes Amendments through January 1, 2012)

Prepared by:

DIVISION OF LEGAL AFFAIRS
Department of Consumer Affairs
1625 N. Market Blvd., Suite S 309
Sacramento, CA 95834
(916) 574-8220

This document may be copied if all of the following conditions are met: the meaning of the copied text is not changed; credit is given to the Department of Consumer Affairs; and all copies are distributed free of charge.

BAGLEY-KEENE OPEN MEETING ACT

Table of Contents

<u>Subject</u>	<u>Page(s)</u>
I. Public Policy to Conduct People's Business Openly	1
II. Board, Committee, Subcommittee, Task Force Meetings	2-4
A. Definition of a "Meeting"	2
B. Exemptions from Definition of Meeting	2-3
C. Board and Committee Meetings	3-4
III. Types of Meetings; Purpose; Notice; Other Requirements	4-11
A. Regularly Scheduled Meetings	4
1. Who May Hold a Regularly Scheduled Meeting	4
2. Purposes for Which the Meeting May be Held	4
3. Notice Requirements for a Regularly Scheduled Meeting	4-7
a. Board Meetings	4-7
b. Committee, Subcommittee or Task Force Meetings	7
4. Specific Requirements for Regularly-Scheduled Meetings	7
5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting	8
B. "Special" Meetings	8-10
1. Who May Hold a Special Meeting	8
2. Purposes for Which a Special Meeting May be Held	8-9
3. Notice Requirements for a Special Meeting	9
4. Specific Requirements During Special Meetings	10
5. Specific Prohibitions on Holding a Special Meeting	10
C. "Emergency" Meetings	10-11
1. Who May Hold an Emergency Meeting	10
2. Purposes for Which an Emergency Meeting May be Held	10
3. Notice Requirements for an Emergency Meeting	10-11
4. Specific Requirements for an Emergency Meeting	11
5. Specific Prohibitions on Holding an Emergency Meeting	11
IV. Closed Sessions	11-17
A. Purposes for Which Closed Session Can be Held	11-15
1. Personnel Matters	11-12
2. Examination Matters	12
3. Matters Affecting Individual Privacy	12-13
4. Administrative Disciplinary Matters	13-14
5. Board of Accountancy Matters	14
6. Pending Litigation	14
7. Response to Confidential Final Draft Audit Report	14
8. Threat of Criminal or Terrorist Activity	15
8. Advisory Bodies/Committees May Meet in Closed Session	15
9. Open Session Otherwise Required	15

B. Notice and Reporting Requirements for Closed Sessions	15-17
1. Notice of Closed Session	15-16
2. Reporting After A Closed Session	16
C. Other Procedural Requirements for Closed Sessions	16-17
V. Meeting by Teleconferencing	17-19
VI. Deliberations and Voting	19-21
A. Seriatim Calls to Individual Agency Members Prohibited	19
B. E-Mail Prohibition	20
C. Secret Ballot Prohibited	20
D. Voting by Proxy Prohibited	20
E. Use of Electronic Devices During Meeting	21
F. Voting by Mail on Administrative Disciplinary Matters	21
VII. Miscellaneous Provisions	21-24
A. Conforming Board Member's Conduct	21
B. Providing Open Meeting Act to New Board Members	21
C. Prohibition on Placing Conditions on Public's Attendance	21-22
1. Sign-in	21-22
2. Discrimination in Admittance to Meeting Facility	22
3. Access for the Disabled	22
4. Charging a Fee or Requiring a Purchase for Access	22
D. Agency Recording of the Proceedings	22
E. Public's Right to Record the Proceedings	22
F. Media Broadcast of the Proceedings	22
G. Webcasting	23
H. Taking Agenda Items Out of Order	23
I. Opportunity for Public Comment at Meetings	23-24
VII. Disclosure of Documents	24-25
A. Documents Distributed Prior to the Meeting	24
B. Documents Distributed During the Meeting	24
C. Charging a Fee for Public Documents	24-25
IX. Penalties	25

**GUIDE TO THE
BAGLEY-KEENE OPEN MEETING ACT**
(Includes Amendments through January 1, 2012)

This guide is an update on the provisions of the public meetings law governing state agencies, officially called the Bagley-Keene Open Meeting Act. (Article 9 (commencing with Section 11120), Chapter 1, Part 1, Division 3, Title 2 of the Government Code). The Open Meeting Act closely parallels the Ralph M. Brown Act, which governs meetings of local government agencies. This guide includes all statutory changes through January 1, 2012. Please disregard all earlier memoranda and the previous Guide to the Bagley-Keene Open Meeting Act (distributed January 5, 2011) on this subject.

All statutory references are to the Government Code.

I. PUBLIC POLICY TO CONDUCT PEOPLE'S BUSINESS OPENLY

Section 11120 sets forth the purpose of the law:

"It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act."

Each board has essentially three duties under the Open Meeting Act. First, to give adequate notice of meetings to be held. Second, to provide an opportunity for public comment. Third, to conduct such meetings in open session, except where a closed session is specifically authorized. We use the terms "agency" and "board" to mean not only boards, but also commissions and any examining committees or boards within the jurisdiction of the Medical Board of California.

II. BOARD, COMMITTEE, SUBCOMMITTEE, TASK FORCE MEETINGS

A. Definition of a "Meeting"

"Meeting" is defined in the Act as including "any congregation of a majority of the members of a state body at the same time and place to hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains." (§11122.5(a)) The law now prohibits use by a majority of the members of a state body of direct communications or a series of communications of any kind, directly or through personal intermediaries, or technological devices (such as e-mails) to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body. (§11122.5(b))

B. Exemptions from Definition of Meeting

The law recognizes that not all gatherings of a majority of members of a state body at a single location constitute a meeting. Current law provides that the provisions of the Act do not apply to the following situations, **provided that** "a majority of the members do not discuss among themselves, other than as part of a scheduled program, business of a specified nature that is within the subject matter jurisdiction of the state body." (§11122.5(c))

- Individual contacts or conversations between a member of a state body and any other person. (§11122.5(c)(1))
- Attendance by a majority of members at a conference or similar gathering open to the public that involves a discussion of issues of general interest to the public or to public agencies of the type represented by the state body. (§11122.5(c)(2))
- Attendance by a majority of members at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body. (§11122.5(c)(3))
- Attendance by a majority of members at an open and noticed meeting of another state body or of a legislative body of a local agency. (§11122.5(c)(4))
- Attendance by a majority of members at a purely social or ceremonial occasion. (§11122.5(c)(5))
- Attendance by a majority of members at an open and noticed meeting of a standing committee of that body, provided the members of the body who are not members of the committee attend only as observers. (§11122.5(c)(6))

The law does not, however, prevent an employee or official from engaging in separate communications outside of a noticed meeting with members of the legislature to answer questions or provide information about a matter within the agency's subject

matter jurisdiction – with the limitation that the person cannot communicate the comments or position of any other member.

C. Board and Committee Meetings

There are two basic types of meetings held by agencies in the Department of Consumer Affairs. The first type is a board meeting, where a quorum of the members of the board is present. The second type is a committee meeting consisting of less than a quorum of the members of the full board. Subcommittee and task force meetings are variations of committee meetings.

Board meetings have historically been required to be noticed and open to the public, except where a closed session is authorized. Committee and subcommittee meetings, where less than a quorum of the board is present, are also required to be noticed and open to the public. The only exception is for a committee that consists of fewer than three persons. (NOTE – it is the number of persons on the committee [not the number of board members] that is determinative.)

Where a committee of fewer than three persons is to meet, and the meeting is not noticed, other members of the board should not attend the meeting, as such attendance would clearly be perceived as an Open Meeting Act violation. Board staff is not precluded from attending such a meeting.

[Restriction on Attendance at Committee Meetings] The law allows attendance by a majority of members at an open and noticed meeting of a standing committee of the board, provided the members of the board who are not members of the committee attend only as observers. (§11122.5(c)(6)) The Office of the Attorney General has addressed in a formal opinion a provision in the Brown Act relating to the attendance of "observers" at a committee meeting. The Attorney General concluded that "[m]embers of the legislative body of a local public agency may not ask questions or make statements while attending a meeting of a standing committee of the legislative body 'as observers.'" The opinion further concluded that such members of the legislative body may not sit in special chairs on the dais with the committee. (81 Ops.Cal.Atty.Gen. 156)

Thus, under the provisions of section 11122.5(c)(6), and the opinion of the California Attorney General, if a majority of members of the full board are present at a committee meeting, members who are not members of the committee that is meeting may attend that meeting only as observers. The board members who are not committee members may not sit on the dais with the committee, and may not participate in the meeting by making statements or asking questions.

If a board schedules its committee meetings seriatim, and other board members are typically present to ultimately be available for their own committee meeting, your notice of the committee meeting should contain a statement to the effect that "Members of the board who are not members of this committee may be attending the meeting only as observers."

Subcommittees may be appointed to study and report back to a committee or the board on a particular issue or issues. If the subcommittee consists of three or more persons, the same provisions apply to its meetings as apply to meetings of committees.

Board chairpersons may occasionally appoint a task force to study and report on a particular issue. One or two board members typically serve as task force members, along with a number of other non-board members. When this is the case, the same Open Meeting Act rules that apply to committee meetings apply to task force meetings. Such a formally appointed task force falls under the definition of "state body in Section 11121(c)."

III. TYPES OF MEETINGS; PURPOSE; NOTICE; OTHER REQUIREMENTS

Boards and committees may hold several types of meetings, including a regularly scheduled meeting, a "special" meeting, or an "emergency" meeting under the provisions of section 11125.5. This section of the memorandum addresses who can hold certain types of meetings, the purposes for which the meetings can be held, notice requirements, and any other special requirements or prohibitions.

A. Regularly Scheduled Meetings

1. Who May Hold a Regularly Scheduled Meeting

A board, committee, subcommittee, or task force may hold a regularly scheduled meeting. These are the business meetings that are scheduled throughout the year to conduct the usual and customary business of the board. Such meetings may generally be called by the chairperson, or by a majority of the body. However, you must refer to your particular licensing act, which may contain different provisions as to who may call a meeting.

2. Purposes for Which the Meeting May be Held

These meetings are to conduct the usual and customary business of the board, or the business of a committee, subcommittee or task force as directed by the board. The subject matter of the meetings is essentially dictated by the jurisdiction of the board as found in the board's licensing act. There are no statutory restrictions in the Open Meeting Act on the purposes for which a regularly scheduled meeting may be held.

3. Notice Requirements for a Regularly Scheduled Meeting

a. Board Meetings

An agency is required to give at least 10 calendar days written notice of each board meeting to be held. (§11125(a).) The notice must include the name, address, and telephone number of a person who can provide further information prior to the

meeting and must contain the website address where the notice can be accessed. The notice must also be posted on the Internet at least 10 calendar days before the meeting.

In addition to the website posting, effective January 1, 2003, the notice is required to be made available in appropriate alternate formats upon request by any person with a disability.

The notice of each board meeting must include an agenda that is prepared for the meeting. The agenda must include all items of business to be transacted or discussed at the meeting. " ... A brief general description of an item generally need not exceed 20 words. ... No item shall be added to the agenda subsequent to the provision of this notice." (§11125(b)) This provision does not, however, preclude amending an agenda provided the amended notice is distributed and posted on the Internet at least 10 calendar days prior to the meeting. Effective January 1, 2003, the notice must include information that would enable a person with a disability to know how, to whom, and by when a request may be made for any disability-related modification or accommodation, including auxiliary aids or services. We suggest the following as standard language:

The meeting is accessible to the physically disabled. A person who needs a disability-related accommodation or modification in order to participate in the meeting may make a request by contacting _____ at (916) _____ or sending a written request to that person at the Board [Address], Sacramento, California, [zip code]. Providing your request at least five (5) business days before the meeting will help ensure availability of the requested accommodation.

The definition of "action taken" in Section 11122 is of some aid in determining what the Legislature intended by use of the words "items of business to be transacted."

"11122. As used in this article 'action taken' means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action."

General agenda items such as "New Business," "Old Business," "Executive Officer's Report," "Committee Reports," "President's Report," "Miscellaneous," etc., without specifying the particular matters thereunder, cannot be used to circumvent this requirement. The Office of the Attorney General has opined that:

"... the purpose of subdivision (b) [of Government Code Section 11125] is to provide advance information to interested members of the public concerning the state body's anticipated business in order that they may

attend the meeting or take whatever other action they deem appropriate under the circumstances.

* * *

"We believe that Section 11125 was and is intended to nullify the need for . . . guesswork or further inquiry on the part of the interested public." (67 Ops.Cal.Atty.Gen. 85, 87)

Items not included on the agenda may not be discussed, even if no action is to be taken by the agency. However, we offer two suggestions so members of the public and board members may raise issues that are not on the agenda.

We strongly encourage boards to include an item on their agendas for "Public Comment on Matters Not on the Agenda." This gives persons who are attending a meeting an opportunity to raise any issues they may have, which may not be on the agenda, but which may be appropriate for future board discussion. Matters raised under this agenda item should be discussed only to the extent necessary to determine whether they should be made an agenda item at a future meeting. (§11125.7(a))

We also strongly encourage boards to include an item on their agenda for "Agenda Items for Future Meetings." This allows all board members an opportunity to request specific agenda items for a meeting. Again, these items should be discussed only to the extent necessary to determine whether they should be included as agenda items for a future meeting.

[CAVEAT: If the regularly scheduled meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

The notice and the agenda must be provided to any person who requests it. A member of the public may request notice for a specific meeting, for all meetings at which a particular subject will be discussed or action taken thereon, or for all meetings of the agency. Mailing lists of persons who desire to be notified of more than one meeting must be maintained pursuant to Section 14911, which provides:

"14911. Whenever any state agency maintains a mailing list of public officials or other persons to whom publications or other printed matter is sent without charge, the state agency shall correct its mailing list and verify its accuracy at least once each year. This shall be done by addressing an appropriate postcard or letter to each person on the mailing list. The name of any person who does not respond to such letter or postcard, or who indicates that he does not desire to receive such publications or printed matter, shall be removed from the mailing lists. The response of those desiring to be on the mailing list shall be retained by these agencies for one year."

Effective 1/1/98, a sentence was added to subdivision (c) of Section 11125.1 to state that "Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication." (Stats. 1997, Chapt. 949; SB 95) The Legal Office interprets this provision to supersede any provisions in particular practice acts which require newspaper publication of board or committee meetings. Boards and committees, of course, retain the discretion to publish notices in newspapers if they so chose.

b. Committee, Subcommittee or Task Force Meetings

Each agency is required to give notice of committee, subcommittee or task force ("committee") meetings to be held. However, this requirement does not apply if the committee consists of less than three persons. It is the number of persons on the committee that is determinative, not how many of the persons are board members. Thus, if a committee consisted of two board members and two other interested persons, its meetings would have to meet all the requirements of the Open Meeting Act.

Notice of committee meetings must be provided and posted on the Internet at least 10 calendar days in advance of the meeting. (§11125(a)) The notice "shall include a brief, general description of the business to be transacted or discussed, and no item shall be added subsequent to the provision of the notice." (§11125(c)) The notice must also include the Website address where the notice can be accessed on the Internet. Although the law does not so specify, we would suggest also including in the notice the name, address, and telephone number of a contact person who can provide further information prior to the meeting. As with board meetings, there is no requirement that the notice be published in any newspaper or other periodical. However, the notice must be provided to any person or persons who have requested to be notified of the particular committee's meetings. You may elect to send such notice to those persons on your regular mailing list.

Remember you must post your notice on the Internet at least 10 calendar days in advance of the meeting and must make the notice available in appropriate alternate formats upon request by any person with a disability.

Provision is made for certain non-emergency, but sometimes necessary, committee meetings. Where, during the course of a regularly scheduled and properly noticed board meeting, the board desires that a committee presently discuss an item of business on the agenda, the committee may do so provided (a) the specific time and place of the committee meeting is announced during the public meeting of the board, and (b) the committee meeting is conducted within a reasonable time of, and nearby, the meeting of the board. (§11125(c))

4. Specific Requirements for Regularly-Scheduled Meetings

There are no specific requirements, other than those set forth above, for regularly scheduled board, committee, subcommittee or task force meetings.

5. Specific Prohibitions on Holding a Regularly-Scheduled Meeting

There are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a regularly scheduled meeting.

We again remind you that, with respect to committee meetings, members of the board who are not members of the committee that is meeting may only attend the committee meeting as observers. This means these members may not sit on the dais with the committee, make any statements, or ask any questions during the committee meeting. (81 Ops.Cal.Atty.Gen. 156)

B. "Special" Meetings

SB 95 of 1997 created a new category of meeting, that being a "special" meeting.

1. Who May Hold a Special Meeting

A board, committee, subcommittee or task force may hold a special meeting.

2. Purposes for Which a Special Meeting May be Held

The only purposes for which a special meeting may be held are set forth in section 11125.4, and are drawn from the purposes for which an emergency meeting could be held under the prior law. In essence, the Legislature recharacterized those purposes as constituting "special" circumstances rather than "emergency" circumstances. Section 11125.4 provides in part that:

"(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body.

A special meeting may only be called for one of the following purposes where compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider 'pending litigation' as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

* * *

Department of Consumer Affairs licensing boards would most likely hold a special meeting for the purposes set forth in subdivisions (1), (2), (3), (4), and (6).

3. Notice Requirements for a Special Meeting

A special meeting can be called at any time by the presiding officer or a majority of the members of the state body, provided the 10-day notice requirements of section 11125 "would impose a substantial hardship on the state body or where immediate action is required to protect the public interest." (§11125.4(a)) The only purposes for which the meeting can be held are those set forth above.

The normal 10-day advance notice is not required for special meetings. However, notice of the special meeting is required to be provided to each member of the state agency and to persons who have requested notice of the agency's meetings as soon as practicable after the decision to hold the meeting is made. Notice to members, newspapers of general circulation, and radio or television stations must be received at least 48 hours in advance of the meeting. Notice to newspapers, radio and television stations is satisfied by providing notice to all national press wire services. Notices to the general public may be given via appropriate electronic bulletin boards or other appropriate mechanisms. (§11125.4(b)) The notice must also be posted on the Internet at least 48 hours in advance of the meeting.

The notice must specify the time and place of the special meeting and the business to be transacted. In essence, an agenda would be prepared. No business other than that noticed may be transacted. Notice is required even if no action is subsequently taken at the meeting. (§11125.4(b)) The notice must contain the Website address where the notice may be accessed on the Internet.

[CAVEAT: If the special meeting will have a closed session agenda item or items, or be held by teleconference, please refer to the discussion of additional requirements under those headings, below.]

4. Specific Requirements During Special Meetings

At the commencement of a special meeting, the agency must make a finding in open session that providing a 10-day notice of the meeting would pose a substantial hardship on the agency, or that immediate action is required to protect the public interest. The specific facts constituting the hardship or need for immediate action must be articulated. This finding must be adopted by a two-thirds (2/3) vote of the agency members present, or if less than two thirds of the members are present, by a unanimous vote of the members present. Failure to adopt the finding terminates the meeting. The agency's finding must be made available on the Internet. (§11125.4(c))

5. Specific Prohibitions on Holding a Special Meeting

As discussed above, a special meeting may only be held for the purposes set forth in section 11125.4(b). Other than the limitation on the purposes of the meeting, there are no statutory prohibitions in the Open Meeting Act on a board, committee, subcommittee or task force conducting a special meeting.

C. "Emergency" Meetings

1. Who May Hold an Emergency Meeting

A board, committee, subcommittee or task force may hold an emergency meeting.

2. Purposes for Which an Emergency Meeting May be Held

As noted above, S.B. 95 of 1997 recharacterized a number of "emergency" situations as "special" situations. This resulted in the narrowing of situations for which an emergency meeting may be held. Section 11125.5 provides an emergency meeting may be held only in the case of an "emergency situation," defined as:

"(1) Work stoppage or other activity that severely impairs public health or safety, or both.

"(2) Crippling disaster that severely impairs public health or safety, or both." (§11125.5(b))

3. Notice Requirements for an Emergency Meeting

An emergency meeting may be held without complying with the 10-day notice requirement in Section 11125 or the 48-hour notice requirement in Section 11125.4. However, newspapers of general circulation, television and radio stations that have requested notice of meetings shall be notified of the emergency by telephone at least one hour before the meeting. If telephone services are not functioning, notice is

deemed waived. The notice must be posted on the Internet as soon as practicable after the decision to call an emergency meeting has been made. However, newspapers, television and radio must be notified as soon as possible after the meeting of the fact of the meeting, its purpose, and any action taken. (§11125.5(c))

4. Specific Requirements for an Emergency Meeting

The following are required to be posted in a public place and on the Internet for a minimum of 10 days, as soon as possible after the emergency meeting:

- * Minutes of the meeting
- * A list of persons notified, or attempted to be notified, of the meeting
- * Any action taken at the meeting
- * The rollcall vote on action taken (§11125.5(d))

5. Specific Prohibitions on Holding an Emergency Meeting

As discussed above, an emergency meeting may only be held for the purposes set forth in section 11125.5(b).

IV. CLOSED SESSIONS

A. Purposes for Which Closed Session Can be Held

"Closed" sessions were formerly called "executive" sessions. Since all references in the Open Meeting Act have been changed from "executive" session to "closed" session, throughout this memorandum we will refer to such sessions as "closed" sessions.

Section 11123 states that "All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article."

Section 11126 sets forth those specific items of business which may be transacted in closed session. Only those enumerated items of business may be conducted in closed session. An agency in the Department may convene a closed session pursuant to Section 11126 for the following purposes.

1. Personnel Matters

A board may meet in closed session to " . . . consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person unless the employee requests a public hearing." In order to consider such disciplinary action or dismissal the "employee shall be given written notice of his or her right to have a public hearing . . . which notice shall be delivered to the employee personally or by mail at

least 24 hours before the meeting." (§11126(a)) If such a notice is not given any action taken during a closed session for the above reason is null and void. Once the public hearing has been held, the agency may convene into closed session to deliberate on the decision to be reached. (§11126(a)(4))

Prior to January 1, 1995, section 11126(a) did not apply to employees who were appointed to their positions, such as executive officers, executive directors, and registrars (referred to as "executive officer" for convenience). For example, any decision or deliberations made in the selection or dismissal of an executive officer previously had to be conducted in open session. (68 Ops.Cal.Atty.Gen. 34.) However, with the enactment of SB 1316 (Stats. 1994, Chapt. 845) and SB 95 (Stats. 1997, Chapt. 949), a board can now meet in closed session to consider the appointment, employment, evaluation of, or dismissal of its executive officer, unless the executive officer requests a public hearing. (§11126(a)(1), (2)) SB 1316 supersedes the conclusion reached in 68 Ops.Cal.Atty.Gen. 34. As noted above, once the public hearing has been held, the state body may convene in closed session to deliberate on the decision to be reached. (§11126(a)(4))

If the executive officer does not request a public hearing, he or she must be given the opportunity for a hearing in closed session. After the hearing, the executive officer should be excused from the closed session, and the board may then continue in closed session to deliberate on the decision to be reached. (§11126(a)(4))

Section 11126(a) is not to be interpreted to mean that a board is required to handle civil service personnel matters itself. Normally, this function of an agency is administered by its executive officer in conjunction with the Director of Consumer Affairs, who shares authority with respect to civil service personnel.

2. Examination Matters

A board may meet in closed session to "prepare, approve, grade or administer examinations." (§11126(c)(1)) Essentially, this includes any discussion regarding the actual content of examinations, and their reliability and validity. If an agency is perusing examination samples in order to choose one over the others, this may be done in closed session. On the other hand, if an agency is discussing, for example, the general logistics of administering an examination, then this would not be proper subject matter for a closed session. A basic rule is that if a meeting concerns the grading, specific content, validity of an examination, or examination security, then it can and should be conducted in closed session.

Also, an agency may hear appeals from examinees or re-review examinations in closed session as this would be included in the "grading" of the examination.

3. Matters Affecting Individual Privacy

A committee, consisting of less than a quorum of the full board, may meet in closed session to:

"... discuss matters which the [committee] has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, . . . Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body." (§11126(c)(2))

Thus, review by a committee (or subcommittee of an examining committee) of an applicant's qualifications for licensure could properly be done in a closed session. Also, for example, an enforcement committee could convene in closed session to discuss an inquiry related to a particular licensee or licensees prior to any action being filed.

CAVEAT: This closed session provision does not authorize such a review by the full board. Nor does it generally authorize a committee of a board to review complaints, investigation reports, or other information to determine whether disciplinary or other action should be filed against a licensee.

To ensure that board members render an impartial and fair decision in considering an Administrative Law Judge's proposed decision, board members are precluded from involving themselves in the investigation or prosecution phase of an action. (§11430.10 *et seq.*) The board's role is that of judge in the case. If a particular board member has any significant involvement in the investigative or prosecution phases, he or she must disqualify himself/herself from participation in the board's action relative to the proposed decision, and not attempt to influence any other board member regarding the decision. Legal counsel should be consulted before any enforcement actions are discussed with individual licensees, as such discussions may impact participation by the member in a final decision on a case (§11430.60), and may require disclosures under the provisions of the state's Administrative Procedure Act. (§11430.50)

Even though these committee meetings may consist entirely of subject matter proper for closed session they are required to be noticed as discussed above.

4. Administrative Disciplinary Matters

A board may meet in closed session to deliberate on a decision in an administrative disciplinary proceeding under the Administrative Procedure Act. (§11400, *et seq.*; §11126(c)(3)) In the closed session, the board may decide whether to adopt a Proposed Decision, review a transcript of a hearing and render a decision of its own, deliberate upon evidence heard by the agency itself, or consider a stipulation.

This section does not authorize an agency to convene into closed session for the purpose of assigning cases, *i.e.* deciding whether a case should be heard by a hearing officer alone or by the agency itself with a hearing officer. This section does not

authorize an agency to convene into closed session to review investigation files or complaints. Members of boards that have the discretion to hear cases should not review pending complaints or investigation files for the reasons given above.

5. Board of Accountancy Matters

The enforcement advisory committee established by the State Board of Accountancy pursuant to Business and Professions Code Section 5020 may convene in a closed session to "consider disciplinary action against an individual accountant prior to the filing of an accusation." (§11126(f)(3)) And the qualifications examining committee established by that board pursuant to Business and Professions Code Section 5023 may convene in closed session to "interview an individual applicant or accountant regarding the applicant's qualifications."

As noted above, such administrative and examining committee meetings are required to be noticed as previously discussed in this memorandum.

6. Pending Litigation

A board may meet in closed session to confer with or receive advice from its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation. (§11126(e)(1)) Again, please note the very specific notice requirements discussed below when a closed session is to be held to discuss "pending litigation". Litigation means an adjudicatory proceeding before a court, administrative body, hearing officer or arbitrator. Litigation is considered to be pending if, (1) it has been initiated formally (e.g. a complaint, claim or petition has been filed) or (2) based on existing facts and circumstances and on the advice of its legal counsel, the state body believes there is significant exposure to litigation against it, or it is meeting to decide whether a closed session is authorized because of significant exposure to litigation or (3) based on existing facts and circumstances, the state body has decided or is deciding whether to initiate litigation. (§11126(e)(2))

The agency's legal counsel must submit a memorandum which complies with the requirements of Section 11126(e)(2)(C)(ii) prior to the closed session if possible, but no later than one week after the closed session. This document is confidential until the pending litigation has been finally adjudicated or otherwise settled. (§6254.25)

7. Response to Confidential Final Draft Audit Report

Section 11126.2 (added effective January 1, 2005) permits an agency to meet in closed session to discuss its response to a confidential final draft audit report from the Bureau of State Audits. However, once that audit report becomes final and is released to the public, the agency may only discuss it in open session.

8. Threat of Criminal or Terrorist Activity

Effective January 1, 2006, AB 277 (Chap. 288, Stats. 2005) authorizes an agency at a regular or special meeting to meet in closed session to consider "matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body," where disclosure of those considerations could compromise or impede the safety or security of the described subjects. The law (Section 11126(c)(18)) requires the agency to authorize the closed session by a two-thirds vote of the members present at the meeting.

9. Advisory Bodies/Committees May Meet in Closed Session

To the extent a licensing board, which is defined as a "state body" in the Open Meeting Act, is authorized to meet in closed session, then committees, subcommittees, or other bodies advisory to the licensing board, which are also defined as "state bodies," may meet in closed session for the same purposes as the licensing board. (§11126((f), (4)-(6))

10. Open Session Otherwise Required

Any other business transacted by an agency must be in open session. Only for the above-mentioned reasons may a board within the Department of Consumer Affairs meet in closed session. (§11132) A board may not meet in closed session for the purpose of electing officers or to discuss the proposal or adoption of rules and regulations. Further, a board may not convene in closed session to discuss testimony received during a hearing on proposed rules and regulations. Finally, an agency may not meet in closed session because it wants to have a frank and open discussion among only members on a matter of controversy. In order for an agency to meet in closed session, the closed session must be specifically authorized by statute.

B. Notice and Reporting Requirements for Closed Sessions

1. Notice of Closed Session

When a closed session will constitute part or all of a meeting, it is important to note Government Code Section 11126.3, which requires that:

"(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. [A provision applicable to the Public Utilities Commission is not included herein.] If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126 [litigation has already commenced], the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states

that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage."

Thus, if the meeting will consist in part or in its entirety of a closed session, you must include on the notice of the meeting the above-described information. Pay particular attention to these very specific requirements if the closed session is to discuss pending litigation. Please note that to obtain legal advice in closed session concerning pending litigation, the notice must cite subdivision (e) of Section 11126 and your attorney must prepare a memorandum stating the specific reasons and legal authority for the closed session. Subdivisions of Government Code Section 11126, discussed under "Closed Sessions" above, will generally be the statutory authority cited.

If a closed session agenda to discuss pending litigation has been properly published, and an additional pending litigation issue subsequently arises, the state agency may discuss the new matter in closed session provided that postponement of the discussion would prevent the state agency from complying with any statutory, court-ordered, or other legally-imposed deadline. The state agency must publicly announce the title of, or otherwise identify, the litigation unless to do so would jeopardize the ability to effectuate service of process, or to do so would jeopardize the agency's ability to conclude existing settlement negotiations to its advantage. (§11126.3(d))

If you intend to have a closed session during your meeting, you should first contact your Legal Division attorney to ensure that a closed session is authorized and properly noticed.

2. Reporting After a Closed Session

Section 11126.3(f), requires a state body to convene in open session after a closed session and to report as required in Section 11125.2, which states that:

"Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state body."

C. Other Procedural Requirements for Closed Sessions

There are certain additional requirements that must be met when closed sessions are to be held.

1. All closed sessions must be held during a regular or special meeting (§11128); they may not be scheduled independently of a noticed meeting of the board or committee. Where, for example, a board or committee meeting is scheduled to discuss only matters appropriate for a closed session, the meeting should be opened

as a public meeting with an announcement immediately following that the agency will convene into closed session.

2. As discussed under "Notice Required," above, prior to holding the closed session the agency must announce the general reason(s) for the closed session and the specific statutory or other legal authority under which the session is held. (§11126.3(a)) With respect to litigation that has already been initiated, it must announce the title of or otherwise identify the litigation. (§11126.3(a)) Other specific notice requirements, discussed above, also apply to notices regarding pending litigation. In the closed session, only matters covered in the statement may be discussed. (§11126.3(b))

3. The agency is required to designate a staff person to attend the closed session and to record in a minute book a record of topics discussed and decisions made. (§11126.1)

4. The minute book referenced in (3) is available only to members of the agency, or if a violation of the Open Meeting Act is alleged, to a court of general jurisdiction. (§11126.1)

5. Information received and discussions held in closed session are **confidential** and must not be disclosed to outside parties by members or staff who attended the closed session. A recent opinion of the Office of the California Attorney General concluded that:

"A local school board member may not publicly disclose information that has been received and discussed in closed session concerning pending litigation unless the information is authorized by law to be disclosed." (80 Ops.Cal.Atty.Gen. 231)

That opinion also cited a previous opinion, in which the Attorney General stated that "We have ... routinely observed that it would be *improper* for information received during a closed session to be publicly disclosed." (76 Ops.Cal.Atty.Gen. 289, 290-291; Emphasis in the original.)

V. MEETING BY TELECONFERENCING

Prior to January 1, 1995, the Bagley-Keene Open Meeting Act contained no provision for conducting meetings where the participating members were not physically present in one location.

Effective 1/1/95, subdivision (b) was added to Government Code section 11123 to authorize meetings by teleconference. (Stats. 1994, Chapt. 1153; AB 3467) That subdivision has been amended several times, most recently by AB 192 of 2001, and it currently provides:

"(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

"(b) (1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this subdivision, 'teleconference' means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video."

A method is thus available whereby meetings may be conducted by audio or video teleconferencing provided the criteria set forth in the statute have been met. Note

the restriction in subdivision (b)(1)(E) that prohibits a closed session emergency meeting. Emergency meetings in open session may be conducted by teleconference.

We emphasize that the law now requires every teleconference meeting location to be identified in the notice and agenda and to be open to the public. Most importantly, the members of the agency must attend the meeting at a public location. Members are no longer able to attend the meeting via teleconference from their offices, homes, or other convenient location unless those locations are identified in the notice and agenda, and the public is permitted to attend at those locations. Nothing prohibits additional locations, where only the public is connected to the teleconference meeting. (§11123(b)(2))

VI. DELIBERATIONS AND VOTING

Keep in mind the Open Meeting Act declaration of legislative intent that actions of state agencies be taken openly and that their deliberation be conducted openly. (§11120) In this regard, there are a number of provisions in the Open Meeting Act which address deliberations and voting.

A. Seriatim Calls to Individual Agency Members Prohibited

Except as authorized by the above-discussed teleconferencing statutes, telephone conference calls may not be used to avoid the requirements of the Open Meeting Act. A conference call including members of a board, committee, subcommittee or task force sufficient to constitute a majority of that state body is prohibited, except pursuant to an authorized teleconference meeting.

In a case involving the Ralph M. Brown Act, the court concluded that a series of one-to-one telephone calls between members of a local body, where the purpose of the calls was to obtain a collective commitment on an issue, constituted a violation of the Act. (*Stockton Newspapers, Inc. v. Members of the Redevelopment Agency of the City of Stockton* (1985) 171 Cal.App.3d 95) The Brown Act is the local agency counterpart to the Bagley-Keene Open Meeting Act, and decisions rendered on its provisions are frequently followed in Open Meeting Act cases.

Citing the *Stockton Newspapers, Inc.* case, the court in *Sutter Bay Associates v. County of Sutter* held that to prevent evasion of the Brown Act, a series of private meetings (known as serial meetings) by which a majority of the members of the legislative body commit themselves to a decision concerning public business or engage in collective deliberation on public business would violate the open meeting requirement. ((1997) 58 Cal.App.4th 860, 877, 68 Cal.Rptr.2d 492, 502)

Effective January 1, 2010, the Act now specifically prohibits serial communications between a majority of members “to discuss, deliberate, or take action on any item of business that is within the subject matter of the state agency.” (Emphasis added.)

B. E-Mail Prohibition

AB 192 of 2001 added subdivision (b) to section 11122.5 to provide:

"Except as authorized pursuant to Section 11123, any use of direct communication, personal intermediaries, or technological devices that is employed by a majority of the members of the state body to develop a collective concurrence as to action to be taken on an item by the members of the state body is prohibited."

The enactment of subdivision (b) of section 11122.5, expands upon and confirms a recent opinion of the Attorney General prohibiting the use of e-mail to reach a collective decision outside a regularly scheduled meeting. In 84 Ops.Cal.Atty.Gen. 30, the Attorney General concluded that:

"A majority of the board members of a local public agency may not e-mail each other to develop a collective concurrence as to action to be taken by the board without violating the Ralph M. Brown Act even if the e-mails are also sent to the secretary and chairperson of the agency, the e-mails are posted on the agency's Internet website, and a printed version of each e-mail is reported at the next public meeting of the board."

As noted above, interpretations of the Brown Act, which governs local public agencies, are often cited as authority in interpreting similar provisions of the Bagley-Keene Open Meeting Act.

Members of a board must refrain from calling or otherwise contacting other members on a one-to-one basis, or conducting serial meetings, in order to discuss, deliberate, or take action outside the meeting on a matter within the subject matter of the board.

C. Secret Ballot Prohibited

An agency may not vote by secret ballot in a public meeting nor vote in closed session on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

For example, the election of board officers may not be conducted by secret ballot or in closed session.

D. Voting by Proxy Prohibited

Voting by proxy is not authorized. (68 Ops.Cal.Atty.Gen. 65, 70)

E. Use of Electronic Devices During Meeting

Board members should not text or email each other during an open meeting on any matter within the board's jurisdiction. Using electronic devices to communicate secretly on such a matter would violate the law. Where laptops are used by board members at the meeting because the board provides board materials electronically, the board president should make an announcement at the beginning of the meeting as to the reason for the laptops. We suggest the following (or something similar):

"You may notice board members accessing their laptops during the meeting. They are using the laptops solely to access the board meeting materials which are in electronic format."

F. Voting by Mail on Administrative Disciplinary Matters

As a general rule, all voting on items of business to be transacted must be done at a public meeting. However, the Administrative Procedure Act authorizes mail voting on all questions arising under that act. (Govt. Code §11526.) Thus, board members may vote by mail on proposed decisions, stipulated decisions, and other matters in connection with a formal disciplinary case. No other votes may be cast by mail. (68 Ops.Cal.Atty.Gen. 65, 69)

VII. MISCELLANEOUS PROVISIONS

There are several provisions governing public meetings which do not fit under any of the above headings, but of which you should be aware.

A. Conforming Board Member's Conduct

Any person who has been appointed as a member of a state body, who has not yet assumed the duties of the office, must conform his or her conduct to the provisions of the Open Meeting Act. (§11125.95)

B. Providing Open Meeting Act to New Board Members

A copy of the Bagley-Keene Open Meeting Act must be provided to each agency member upon his or her appointment to office. Each agency should insure that a copy is given to each new member. (§11121.9.)

C. Prohibition on Placing Conditions on Public's Attendance

1. Sign-in

No person can be required to register or sign-in or fulfill any other condition in order to attend a public meeting of an agency. While a person who wishes to make public comment may be asked to identify himself or herself for the board's record or

minutes, a commenter cannot be compelled to do so or prevented from speaking because the commenter refuses to identify himself or herself.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, "it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document." (§11124)

2. Discrimination in Admittance to Meeting Facility

A meeting may not be held in any facility that prohibits the admittance of any persons on the basis of race, religious creed, color, national origin, ancestry, or sex. (§11131)

3. Access for the Disabled

All meetings must be accessible to the disabled. (§11131)

4. Charging a Fee or Requiring a Purchase for Access

The Open Meeting Act prohibits holding a meeting in any location where the public is required to pay a fee or make a purchase to attend. (§11131)

D. Agency Recording of the Proceedings

A tape or film record of an open and public meeting made by the agency must be made available for public inspection under the California Public Records Act, but may be erased or destroyed 30 days after the taping or recording. An inspection must be provided without charge on an audio or video tape player made available by the state agency. (§11124.1(b))

E. Public's Right to Record the Proceedings

Persons attending a public meeting have a right to record the proceedings with an audio or video tape recorder or still or motion picture camera, in the absence of a reasonable finding by the agency that the recording could not continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings. (§11124.1(a))

F. Media Broadcast of the Proceedings

A state body may not prohibit or otherwise restrict the broadcast of a public meeting in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings. (§11124.1(c))

G. Webcasting

While webcasting is not required, if you plan to webcast your meeting, we encourage you to place the following statement on your agenda:

"While the board intends to webcast this meeting, it may not be possible to webcast the entire open meeting due to limitations on resources."

H. Taking Agenda Items Out of Order

Items listed on the agenda may be taken up out of order, provided the purpose of moving the agenda items is not to frustrate public or other input on the item. It is a good practice to note on either the top or the bottom of your agenda that "All times indicated and the order of business are approximate and subject to change," to alert members of the public this is a possibility.

If your agency schedules a multiple day meeting and may move items scheduled for a subsequent day to an earlier day, you should provide notice of this possibility on your agenda. Suggested language is that "Items scheduled for a particular day may be moved to an earlier day to facilitate the board's business." Again, the purpose may not be to frustrate public or other input.

I. Opportunity for Public Comment at Meetings

Section 11125.7 addresses the subject of public comment at board meetings. With specified exceptions, that section requires state agencies to provide an opportunity for members of the public to directly address the state agency on each agenda item before or during the agency's discussion or consideration of the item. This opportunity for comment need not be made available if:

1. The agenda item has previously been considered at a public meeting by a committee comprised exclusively of board members, where members of the public were provided an opportunity to address the item. However, if the item has been substantially changed since the committee meeting, a new opportunity to address the agency would be required at the full board meeting.
2. The agenda item is one that may properly be considered in closed session, which would include deliberation and action on disciplinary proceedings under the Administrative Procedure Act. (§11125.7)

If a board wishes to establish a standing rule that discussion of agenda items will be given a specified amount of time, or that public comment will be limited to a certain amount of time, the board may do that by adopting an administrative regulation. (§11125.7(b))

The law specifically provides that a state agency may not prohibit public criticism of its policies, programs, or services, or of the acts or omissions of the agency. (§11125.7(c))

VIII. DISCLOSURE OF DOCUMENTS

A. Documents Distributed Prior to the Meeting

When writings which are public records are distributed to all, or a majority of all, of the members of a board or committee for discussion or consideration at a public meeting, the writings must be made available for public inspection. Generally, the records must be made available for inspection at the time of distribution to agency members. (§11125.1(a)) Records exempt from disclosure under Sections 6253.5, 6254 or 6254.7 of the Public Records Act need not be disclosed even though the subject matter of the records may be considered or discussed at the meeting. This includes records which are drafts, notes or memoranda which will not be retained by the agency, attorney-client privileged communications, records of pending litigation and claims against the state, personnel, medical or similar files, complaint and investigation files, except for Accusations and Proposed Decisions, and any records or data relating to examinations.

B. Documents Distributed During the Meeting

When public records pertaining to an agenda item are prepared by the state body or a member of the state body, and distributed to state body members during a meeting, the documents must be made available for public inspection at the meeting. If records are prepared by some other person, and distributed to members of the state body during a meeting, the documents must be made available for public inspection after the meeting. (§11125.1(b)) Records exempt from public disclosure under specified statutes are not required to be publicly disclosed. (§11125.1(a), (b))

C. Charging a Fee for Public Documents

Under section 11126.7, an agency may not charge a fee for a notice, including the agenda, of a meeting, and may only charge those fees specifically authorized for public documents that are considered at the meeting

At its discretion, an agency may charge a fee to cover reproduction costs for providing the documents required to be made available, as discussed in paragraph (B), immediately above. If an agency charges a fee, it is limited to the direct costs of duplication authorized in Section 6257 for the reproduction of public records. (§11125.1(c))

Effective January 1, 2003, documents distributed prior to or during a meeting that are public records must be made available, upon request by a person with a

disability, in appropriate alternative formats. No extra charge can be imposed for putting those documents into an alternative format.

IX. PENALTIES

Under previous law, any interested person could commence court action (mandamus, injunction, declaratory relief) to stop or prevent violations or threatened violations of the Open Meeting Act. SB 95, effective 1/1/98, added the Attorney General and the district attorney to the list of those who may commence such action. Court costs and reasonable attorney's fees may be awarded to a successful plaintiff to be paid from the funds of the agency. (§11130.5)

SB 95 also expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek court action "to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, ..." (§11130(a)) This appears to be a rather unique provision, and its implications are unknown at this time.

SB 95 further expanded the law to authorize the Attorney General, a district attorney, or any interested person to seek a court action to compel a state agency to tape record its closed sessions. Upon a judgment of a violation of Section 11126, a court could so compel an agency. Discovery procedures for the tape recordings are also set forth. (§11130(b), and (c))

Section 11130.3 authorizes a person to institute a court action to obtain a judicial determination that an action taken in violation of the notice provisions or the provisions governing closed sessions of the Act is null and void. Court costs and reasonable attorney's fees may also be awarded to a successful plaintiff under this section. This section reinforces the need for a specific, informative agenda as required by Section 11125.

These remedies extend to past actions of an agency. The statute of limitations for bringing an action is 90 days. (§§11130(c) and 11130.3(a)).

Section 11130.7 of the Act provides:

"Each member of a state body who attends a meeting of such body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason to know the public is entitled, is guilty of a misdemeanor."
(Emphasis added.)

BAGLEY-KEENE OPEN MEETING ACT - 2012

11120. Public policy; legislative finding and declaration; citation of article

It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

The people of this state do not yield their sovereignty to the agencies which serve them. The people, in delegating authority, do not give their public servants the right to decide what is good for the people to know and what is not good for them to know. The people insist on remaining informed so that they may retain control over the instruments they have created.

This article shall be known and may be cited as the Bagley-Keene Open Meeting Act.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1980, c. 1284, p. 4333, § 4;
Stats. 1981, c. 968, p. 3683, § 4.)

11121. State body defined

As used in this article, "state body" means each of the following:

(a) Every state board, or

commission, or similar multimember body of the state that is created by statute or required by law to conduct official meetings and every commission created by executive order.

(b) A board, commission, committee, or similar multimember body that exercises any authority of a state body delegated to it by that state body.

(c) An advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a state body, if created by formal action of the state body or of any member of the state body, and if the advisory body so created consists of three or more persons.

(d) A board, commission, committee, or similar multimember body on which a member of a body that is a state body pursuant to this section serves in his or her official capacity as a representative of that state body and that is supported, in whole or in part, by funds provided by the state body, whether the multimember body is organized and operated by the state body or by a private corporation.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1980, c. 515, § 1; Stats.1981, c. 968, p. 3683, § 5; Stats.1984, c. 193, § 38.
Amended by Stats.1996, c. 1023 (S.B.1497), § 88, eff. Sept. 29, 1996; Stats.1996, c. 1064 (A.B.3351), § 783.1, operative July 1, 1997; Stats.2001, c. 243 (A.B.192), § 1; Amended Stats. 2003 ch 62 § 117 (SB 600)).

BAGLEY-KEENE OPEN MEETING ACT - 2012

11121.1. State body; exclusions

As used in this article, "state body" does not include any of the following:

(a) State agencies provided for in Article VI of the California Constitution.

(b) Districts or other local agencies whose meetings are required to be open to the public pursuant to the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5).

(c) State agencies provided for in Article IV of the California Constitution whose meetings are required to be open to the public pursuant to the Grunsky-Burton Open Meeting Act (Article 2.2 (commencing with Section 9027) of Chapter 1.5 of Part 1 of Division 2 of Title 2).

(d) State agencies when they are conducting proceedings pursuant to Section 3596.

(e) State agencies provided for in Section 109260 of the Health and Safety Code, except as provided in Section 109390 of the Health and Safety Code.

(f) The Credit Union Advisory Committee established pursuant to Section 14380 of the Financial Code.

(Added by Stats.2001, c. 243 (A.B.192), § 2. Amended by Stats. 2008, c. 344 (S.B. 1145), § 2, eff. Sept. 26, 2008.)

11121.2. Repealed by Stats. 2001, c. 243 (A.B.192), § 3

The repealed section, added by Stats.1981, c. 968, p. 3684, § 5.2, related to multimember body with authority from state body.

11121.7. Repealed by Stats. 2001, c. 243 (A.B.192), § 4

The repealed section, added by Stats.1980, c. 1284, p. 4333, § 5, amended by Stats.1981, c. 968, p. 3685, § 6, related to representatives of the state body.

11121.8. Repealed by Stats. 2001, c. 243 (A.B.192), § 5

The repealed section, added by Stats.1981, c. 968, p. 3684, § 7, related to advisory bodies.

11121.9. Provision of copy of article to members of state body

Each state body shall provide a copy of this article to each member of the state body upon his or her appointment to membership or assumption of office.

(Added by Stats.1980, c. 1284, p. 4334, § 6. Amended by Stats.1981, c. 714, p. 2659, § 175; Stats.1981, c. 968, p. 3685, § 7.1.)

BAGLEY-KEENE OPEN MEETING ACT - 2012

11121.95. Appointees or elected officials not yet in office; conformity of conduct to article requirements

Any person appointed or elected to serve as a member of a state body who has not yet assumed the duties of office shall conform his or her conduct to the requirements of this article and shall be treated for purposes of this article as if he or she has already assumed office.

(Added by Stats.1997, c. 949 (S.B.95), § 1.)

11122. Action taken

As used in this article "action taken" means a collective decision made by the members of a state body, a collective commitment or promise by the members of the state body to make a positive or negative decision or an actual vote by the members of a state body when sitting as a body or entity upon a motion, proposal, resolution, order or similar action.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3685, § 7.3.)

11122.5. Meeting defined; series of communications to discuss, deliberate, or take action prohibited; exceptions

(a) As used in this article, "meeting" includes any congregation of a majority of the members of a state body at the same time and place to

hear, discuss, or deliberate upon any item that is within the subject matter jurisdiction of the state body to which it pertains.

(b)(1) A majority of the members of a state body shall not, outside of a meeting authorized by this chapter, use a series of communications of any kind, directly or through intermediaries, to discuss, deliberate, or take action on any item of business that is within the subject matter of the state body.

(2) Paragraph (1) shall not be construed to prevent an employee or official of a state agency from engaging in separate conversations or communications outside of a meeting authorized by this chapter with members of a legislative body in order to answer questions or provide information regarding a matter that is within the subject matter jurisdiction of the state agency, if that person does not communicate to members of the legislative body the comments or position of any other member or members of the legislative body.

(c) The prohibitions of this article do not apply to any of the following:

(1) Individual contacts or conversations between a member of a state body and any other person that do not violate subdivision (b).

(2)(A) The attendance of a majority of the members of a state body at a conference or similar gathering open to the public that involves a

BAGLEY-KEENE OPEN MEETING ACT - 2012

discussion of issues of general interest to the public or to public agencies of the type represented by the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(B) Subparagraph (A) does not allow members of the public free admission to a conference or similar gathering at which the organizers have required other participants or registrants to pay fees or charges as a condition of attendance.

(3) The attendance of a majority of the members of a state body at an open and publicized meeting organized to address a topic of state concern by a person or organization other than the state body, if a majority of the members do not discuss among themselves, other than as part of the scheduled program, business of a specific nature that is within the subject matter jurisdiction of the state body.

(4) The attendance of a majority of the members of a state body at an open and noticed meeting of another state body or of a legislative body of a local agency as defined by Section 54951, if a majority of the members do not discuss among themselves, other than as part of the scheduled meeting, business of a specific nature that is within the subject matter jurisdiction of the other state body.

(5) The attendance of a majority of the members of a state body at a purely social or ceremonial occasion, if a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the state body.

(6) The attendance of a majority of the members of a state body at an open and noticed meeting of a standing committee of that body, if the members of the state body who are not members of the standing committee attend only as observers.

(Added by Stats.2001, c. 243 (A.B.192), § 6.
Amended by Stats.2009, c. 150 (A.B.1494), § 1.)

11123. Meetings; attendance; teleconference option

(a) All meetings of a state body shall be open and public and all persons shall be permitted to attend any meeting of a state body except as otherwise provided in this article.

(b)(1) This article does not prohibit a state body from holding an open or closed meeting by teleconference for the benefit of the public and state body. The meeting or proceeding held by teleconference shall otherwise comply with all applicable requirements or laws relating to a specific type of meeting or proceeding, including the following:

(A) The teleconferencing meeting shall comply with all requirements of this

BAGLEY-KEENE OPEN MEETING ACT - 2012

article applicable to other meetings.

(B) The portion of the teleconferenced meeting that is required to be open to the public shall be audible to the public at the location specified in the notice of the meeting.

(C) If the state body elects to conduct a meeting or proceeding by teleconference, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the rights of any party or member of the public appearing before the state body. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. The agenda shall provide an opportunity for members of the public to address the state body directly pursuant to Section 11125.7 at each teleconference location.

(D) All votes taken during a teleconferenced meeting shall be by rollcall.

(E) The portion of the teleconferenced meeting that is closed to the public may not include the consideration of any agenda item being heard pursuant to Section 11125.5.

(F) At least one member of the state body shall be physically present at the location specified in the notice of the meeting.

(2) For the purposes of this

subdivision, "teleconference" means a meeting of a state body, the members of which are at different locations, connected by electronic means, through either audio or both audio and video. This section does not prohibit a state body from providing members of the public with additional locations in which the public may observe or address the state body by electronic means, through either audio or both audio and video.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3685, § 7.5.
Amended by Stats.1994, c. 1153 (A.B.3467), § 1;
Stats.1997, c. 52 (A.B.1097), § 1; Stats.2001, c. 243 (A.B.192), § 7.)

11123.1. State body meetings to meet protections and prohibitions of the Americans with Disabilities Act

All meetings of a state body that are open and public shall meet the protections and prohibitions contained in Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof.

(Added by Stats. 2002, c. 300 (A.B. 3035), § 1.)

11124. Conditions to attendance

No person shall be required, as a condition to attendance at a meeting of a state body, to register his or her name, to provide other information, to complete a questionnaire, or otherwise

BAGLEY-KEENE OPEN MEETING ACT - 2012

to fulfill any condition precedent to his or her attendance.

If an attendance list, register, questionnaire, or other similar document is posted at or near the entrance to the room where the meeting is to be held, or is circulated to persons present during the meeting, it shall state clearly that the signing, registering, or completion of the document is voluntary, and that all persons may attend the meeting regardless of whether a person signs, registers, or completes the document.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1981, c. 968, p. 3685, § 8.)

11124.1. Audio or video recording of proceedings; inspection of state's recording; broadcast restrictions

(a) Any person attending an open and public meeting of the state body shall have the right to record the proceedings with an audio or video recorder or a still or motion picture camera in the absence of a reasonable finding by the state body that the recording cannot continue without noise, illumination, or obstruction of view that constitutes, or would constitute, a persistent disruption of the proceedings.

(b) Any audio or video recording of an open and public meeting made for whatever purpose by or at the direction of the state body shall be subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of

Division 7 of Title 1), but may be erased or destroyed 30 days after the recording. Any inspection of an audio or video recording shall be provided without charge on equipment made available by the state body.

(c) No state body shall prohibit or otherwise restrict the broadcast of its open and public meetings in the absence of a reasonable finding that the broadcast cannot be accomplished without noise, illumination, or obstruction of view that would constitute a persistent disruption of the proceedings.

(Added by Stats.1980, c. 1284, p. 4334, § 7. Amended by Stats.1981, c. 968, p. 3685, § 9; Stats.1997, c. 949 (S.B.95), § 2; Stats.2009, c. 88 (A.B.176), § 42.)

11125. Notice of meeting

(a) The state body shall provide notice of its meeting to any person who requests that notice in writing. Notice shall be given and also made available on the Internet at least 10 days in advance of the meeting, and shall include the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. The written notice shall additionally include the address of the Internet site where notices required by this article are made available.

(b) The notice of a meeting of a body that is a state body shall include a

BAGLEY-KEENE OPEN MEETING ACT - 2012

specific agenda for the meeting, containing a brief description of the items of business to be transacted or discussed in either open or closed session. A brief general description of an item generally need not exceed 20 words. A description of an item to be transacted or discussed in closed session shall include a citation of the specific statutory authority under which a closed session is being held. No item shall be added to the agenda subsequent to the provision of this notice, unless otherwise permitted by this article.

(c) Notice of a meeting of a state body that complies with this section shall also constitute notice of a meeting of an advisory body of that state body, provided that the business to be discussed by the advisory body is covered by the notice of the meeting of the state body, provided that the specific time and place of the advisory body's meeting is announced during the open and public state body's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state body.

(d) A person may request, and shall be provided, notice pursuant to subdivision (a) for all meetings of a state body or for a specific meeting or meetings. In addition, at the state body's discretion, a person may request, and may be provided, notice of only those meetings of a state body at which a particular subject or subjects specified in the request will be discussed.

(e) A request for notice of more than one meeting of a state body shall be subject to the provisions of Section 14911.

(f) The notice shall be made available in appropriate alternative formats, as required by Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request, by any person with a disability. The notice shall include information regarding how, to whom, and by when a request for any disability-related modification or accommodation, including auxiliary aids or services may be made by a person with a disability who requires these aids or services in order to participate in the public meeting.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1973, c. 1126, p. 2291, § 1; Stats.1975, c. 708, p. 1695, § 1; Stats.1979, c. 284, § 1, eff. July 24, 1979; Stats.1981, c. 968, p. 3685, § 10. Amended by Stats.1997, c. 949 (S.B.95), § 3; Stats.1999, c. 393 (A.B.1234), § 1; Stats.2001, c. 243 (A.B.192), § 8; Stats. 2002, c. 300 (A.B. 3035), § 2.)

11125.1. Agendas and other writings distributed for discussion or consideration at public meetings; public records; Franchise Tax Board; inspection; availability on the Internet; closed sessions

(a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings,

BAGLEY-KEENE OPEN MEETING ACT - 2012

when distributed to all, or a majority of all, of the members of a state body by any person in connection with a matter subject to discussion or consideration at a public meeting of the body, are disclosable public records under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be made available upon request without delay. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7 of this code, or Section 489.1 or 583 of the Public Utilities Code.

(b) Writings that are public records under subdivision (a) and that are distributed to members of the state body prior to or during a meeting, pertaining to any item to be considered during the meeting, shall be made available for public inspection at the meeting if prepared by the state body or a member of the state body, or after the meeting if prepared by some other person. These writings shall be made available in appropriate alternative formats, as required by Section 202 of the American with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the federal rules and regulations adopted in implementation thereof, upon request by a person with a disability.

(c) In the case of the Franchise Tax Board, prior to that state body taking final action on any item, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed to members of the state body by the Franchise Tax

Board staff or individual members prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request notice in writing pursuant to subdivision (a) of Section 11125.

(3) Made available on the Internet.

(d) Prior to the State Board of Equalization taking final action on any item that does not involve a named tax or fee payer, writings pertaining to that item that are public records under subdivision (a) that are prepared and distributed by board staff or individual members to members of the state body prior to or during a meeting shall be:

(1) Made available for public inspection at that meeting.

(2) Distributed to all persons who request or have requested copies of these writings.

(3) Made available on the Internet.

(e) Nothing in this section shall be construed to prevent a state body from charging a fee or deposit for a copy of a public record pursuant to Section 6253, except that no surcharge shall be imposed on persons with disabilities in violation of Section 202 of the Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12132), and the

BAGLEY-KEENE OPEN MEETING ACT - 2012

federal rules and regulations adopted in implementation thereof. The writings described in subdivision (b) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to limit or delay the public's right to inspect any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not be construed to be applicable to any writings solely because they are properly discussed in a closed session of a state body. Nothing in this article shall be construed to require a state body to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

(Added by Stats.1975, c. 959, p. 2238, § 4. Amended by Stats.1980, c. 1284, p. 4334, § 8; Stats.1981, c. 968, p. 3686, § 10.1. Amended by Stats.1997, c. 949 (S.B.95), § 4; Stats.2001, c. 670 (S.B.445), § 1; Stats. 2002, c. 300 (A.B. 3035), § 3.5.); Stats. 2005, c. 188 (A.B. 780), § 1.)

11125.2. Appointment, employment or dismissal of public employees; closed sessions; public report

Any state body shall report publicly at a subsequent public meeting any action taken, and any rollcall vote thereon, to appoint, employ, or dismiss

a public employee arising out of any closed session of the state body.

(Added by Stats.1980, c. 1284, p. 4335, § 9. Amended by Stats.1981, c. 968, p. 3687, § 10.3.)

11125.3. Action on items of business not appearing on agenda; notice

(a) Notwithstanding Section 11125, a state body may take action on items of business not appearing on the posted agenda under any of the conditions stated below:

(1) Upon a determination by a majority vote of the state body that an emergency situation exists, as defined in Section 11125.5.

(2) Upon a determination by a two-thirds vote of the state body, or, if less than two-thirds of the members are present, a unanimous vote of those members present, that there exists a need to take immediate action and that the need for action came to the attention of the state body subsequent to the agenda being posted as specified in Section 11125.

(b) Notice of the additional item to be considered shall be provided to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after a determination of the need to consider the item is made, but shall be delivered in a manner that allows it to be received by the members and by

BAGLEY-KEENE OPEN MEETING ACT - 2012

newspapers of general circulation and radio or television stations at least 48 hours before the time of the meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet as soon as is practicable after the decision to consider additional items at a meeting has been made.

(Added by Stats.1994, c. 1153 (A.B.3467), § 2.
Amended by Stats.2001, c. 243 (A.B.192), § 9.)

11125.4. Special meetings; authorized purposes; notice; required finding of hardship or need to protect public interest

(a) A special meeting may be called at any time by the presiding officer of the state body or by a majority of the members of the state body. A special meeting may only be called for one of the following purposes where compliance with the 10-day notice provisions of Section 11125 would impose a substantial hardship on the state body or where immediate action is required to protect the public interest:

(1) To consider "pending litigation" as that term is defined in subdivision (e) of Section 11126.

(2) To consider proposed legislation.

(3) To consider issuance of a legal opinion.

(4) To consider disciplinary action involving a state officer or employee.

(5) To consider the purchase, sale, exchange, or lease of real property.

(6) To consider license examinations and applications.

(7) To consider an action on a loan or grant provided pursuant to Division 31 (commencing with Section 50000) of the Health and Safety Code.

(8) To consider its response to a confidential final draft audit report as permitted by Section 11126.2.

(9) To provide for an interim executive officer of a state body upon the death, incapacity, or vacancy in the office of the executive officer.

(b) When a special meeting is called pursuant to one of the purposes specified in subdivision (a), the state body shall provide notice of the special meeting to each member of the state body and to all parties that have requested notice of its meetings as soon as is practicable after the decision to call a special meeting has been made, but shall deliver the notice in a manner that allows it to be received by the members and by newspapers of general circulation and radio or television stations at least 48 hours before the time of the special meeting specified in the notice. Notice shall be made available to newspapers of general circulation and radio or television

BAGLEY-KEENE OPEN MEETING ACT - 2012

stations by providing that notice to all national press wire services. Notice shall also be made available on the Internet within the time periods required by this section. The notice shall specify the time and place of the special meeting and the business to be transacted. The written notice shall additionally specify the address of the Internet Web site where notices required by this article are made available. No other business shall be considered at a special meeting by the state body. The written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the state body a written waiver of notice. The waiver may be given by telegram, facsimile transmission, or similar means. The written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

(c) At the commencement of any special meeting, the state body must make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 would cause a substantial hardship on the body or that immediate action is required to protect the public interest. The finding shall set forth the specific facts that constitute the hardship to the body or the impending harm to the public interest. The finding shall be adopted by a two-thirds vote of

the body, or, if less than two-thirds of the members are present, a unanimous vote of those members present. The finding shall be made available on the Internet. Failure to adopt the finding terminates the meeting.

(Added by Stats.1997, c. 949 (S.B.95), § 5.
Amended by Stats.1999, c. 393 (A.B.1234), § 2;
Stats.2004, c. 576 (A.B.1827), § 1.; Stats. 2007,
c. 92 (S.B. 519), § 1.)

11125.5. Emergency meetings

(a) In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities, a state body may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4.

(b) For purposes of this section, "emergency situation" means any of the following, as determined by a majority of the members of the state body during a meeting prior to the emergency meeting, or at the beginning of the emergency meeting:

(1) Work stoppage or other activity that severely impairs public health or safety, or both.

(2) Crippling disaster that severely impairs public health or safety, or both.

BAGLEY-KEENE OPEN MEETING ACT - 2012

(c) However, newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the state body, or a designee thereof, one hour prior to the emergency meeting by telephone. Notice shall also be made available on the Internet as soon as is practicable after the decision to call the emergency meeting has been made. If telephone services are not functioning, the notice requirements of this section shall be deemed waived, and the presiding officer of the state body, or a designee thereof, shall notify those newspapers, radio stations, or television stations of the fact of the holding of the emergency meeting, the purpose of the meeting, and any action taken at the meeting as soon after the meeting as possible.

(d) The minutes of a meeting called pursuant to this section, a list of persons who the presiding officer of the state body, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place, and also made available on the Internet for a minimum of 10 days, as soon after the meeting as possible.

(Amended by Stats.1992, c. 1312 (A.B.2912), § 11, eff. Sept. 30, 1992; Stats.1997, c. 949 (S.B.95), § 6; Stats.1999, c. 393 (A.B.1234), § 3.)

11125.6. Fish and Game Commission; emergency meetings;

appeals of fishery closures or restrictions

(a) An emergency meeting may be called at any time by the president of the Fish and Game Commission or by a majority of the members of the commission to consider an appeal of a closure of or restriction in a fishery adopted pursuant to Section 7710 of the Fish and Game Code. In the case of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of an established fishery, the commission may hold an emergency meeting without complying with the 10-day notice requirement of Section 11125 or the 48-hour notice requirement of Section 11125.4 if the delay necessitated by providing the 10-day notice of a public meeting required by Section 11125 or the 48-hour notice required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the people of the state or significantly adversely impact the sustainability of a fishery managed by the state.

(b) At the commencement of an emergency meeting called pursuant to this section, the commission shall make a finding in open session that the delay necessitated by providing notice 10 days prior to a meeting as required by Section 11125 or 48 hours prior to a meeting as required by Section 11125.4 would significantly adversely impact the economic benefits of a fishery to the participants in the fishery and to the

BAGLEY-KEENE OPEN MEETING ACT - 2012

people of the state or significantly adversely impact the sustainability of a fishery managed by the state. The finding shall set forth the specific facts that constitute the impact to the economic benefits of the fishery or the sustainability of the fishery. The finding shall be adopted by a vote of at least four members of the commission, or, if less than four of the members are present, a unanimous vote of those members present. Failure to adopt the finding shall terminate the meeting.

(c) Newspapers of general circulation and radio or television stations that have requested notice of meetings pursuant to Section 11125 shall be notified by the presiding officer of the commission, or a designee thereof, one hour prior to the emergency meeting by telephone.

(d) The minutes of an emergency meeting called pursuant to this section, a list of persons who the president of the commission, or a designee thereof, notified or attempted to notify, a copy of the rollcall vote, and any action taken at the meeting shall be posted for a minimum of 10 days in a public place as soon after the meeting as possible.

(Added by Stats.1998, c. 1052 (A.B.1241), S 21.)

11125.7. Agenda item discussion before state body; opportunity for public address; regulation by state body; freedom of expression; application of provisions

(a) Except as otherwise provided in this section, the state body shall provide an opportunity for members of the public to directly address the state body on each agenda item before or during the state body's discussion or consideration of the item. This section is not applicable if the agenda item has already been considered by a committee composed exclusively of members of the state body at a public meeting where interested members of the public were afforded the opportunity to address the committee on the item, before or during the committee's consideration of the item, unless the item has been substantially changed since the committee heard the item, as determined by the state body. Every notice for a special meeting at which action is proposed to be taken on an item shall provide an opportunity for members of the public to directly address the state body concerning that item prior to action on the item. In addition, the notice requirement of Section 11125 shall not preclude the acceptance of testimony at meetings, other than emergency meetings, from members of the public, provided, however, that no action is taken by the state body at the same meeting on matters brought before the body by members of the public.

(b) The state body may adopt reasonable regulations to ensure that the intent of subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public comment on

BAGLEY-KEENE OPEN MEETING ACT - 2012

particular issues and for each individual speaker.

(c) The state body shall not prohibit public criticism of the policies, programs, or services of the state body, or of the acts or omissions of the state body. Nothing in this subdivision shall confer any privilege or protection for expression beyond that otherwise provided by law.

(d) This section is not applicable to closed sessions held pursuant to Section 11126.

(e) This section is not applicable to decisions regarding proceedings held pursuant to Chapter 5 (commencing with Section 11500), relating to administrative adjudication, or to the conduct of those proceedings.

(f) This section is not applicable to hearings conducted by the California Victim Compensation and Government Claims board pursuant to Sections 13963 and 13963.1.

(g) This section is not applicable to agenda items that involve decisions of the Public Utilities Commission regarding adjudicatory hearings held pursuant to Chapter 9 (commencing with Section 1701) of Part 1 of Division 1 of the Public Utilities Code. For all other agenda items, the commission shall provide members of the public, other than those who have already participated in the proceedings underlying the agenda item, an opportunity to directly address the

commission before or during the commission's consideration of the item.

(Added by Stats.1993, c. 1289 (S.B.367), § 2. Amended by Stats.1995, c. 938 (S.B.523), § 13, operative July 1, 1997; Stats.1997, c. 949 (S.B.95), § 7.; Stats. 2006, c. 538 (S.B. 1852), § 248.)

11125.8. Hearings to consider crimes against minors or crimes of sexual assault or domestic violence; identification of applicant; disclosure of nature of hearing

(a) Notwithstanding Section 11131.5, in any hearing that the State California Victim Compensation and Government Claims Board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, no notice, agenda, announcement, or report required under this article need identify the applicant.

(b) In any hearing that the board conducts pursuant to Section 13963.1 and that the applicant or applicant's representative does not request be open to the public, the board shall disclose that the hearing is being held pursuant to Section 13963.1. That disclosure shall be deemed to satisfy the requirements of subdivision (a) of Section 11126.3.

(Added by Stats.1997, c. 949 (S.B.95), § 9.; Stats. 2006, c. 538 (S.B. 1852, § 249.)

BAGLEY-KEENE OPEN MEETING ACT - 2012

11125.9. Regional water quality control boards; compliance with notification guidelines

(Added by Stats.1997, c. 301 (A.B.116), § 1.)

Regional water quality control boards shall comply with the notification guidelines in Section 11125 and, in addition, shall do both of the following:

(a) Notify, in writing, all clerks of the city councils and county boards of supervisors within the regional board's jurisdiction of any and all board hearings at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting. Each clerk, upon receipt of the notification of a board hearing, shall distribute the notice to all members of the respective city council or board of supervisors within the regional board's jurisdiction.

(b) Notify, in writing, all newspapers with a circulation rate of at least 10,000 within the regional board's jurisdiction of any and all board hearings, at least 10 days prior to the hearing. Notification shall include an agenda for the meeting with contents as described in subdivision (b) of Section 11125 as well as the name, address, and telephone number of any person who can provide further information prior to the meeting, but need not include a list of witnesses expected to appear at the meeting.

§ 11126. Closed sessions.

(a)(1) Nothing in this article shall be construed to prevent a state body from holding closed sessions during a regular or special meeting to consider the appointment, employment, evaluation of performance, or dismissal of a public employee or to hear complaints or charges brought against that employee by another person or employee unless the employee requests a public hearing.

(2) As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, the employee shall be given written notice of his or her right to have a public hearing, rather than a closed session, and that notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at the closed session shall be null and void.

(3) The state body also may exclude from any public or closed session, during the examination of a witness, any or all other witnesses in the matter being investigated by the state body.

(4) Following the public hearing or closed session, the body may deliberate on the decision to be reached in a closed session.

(b) For the purposes of this section, "employee" does not include any person who is elected to, or appointed to a public

BAGLEY-KEENE OPEN MEETING ACT - 2012

office by, any state body. However, officers of the California State University who receive compensation for their services, other than per diem and ordinary and necessary expenses, shall, when engaged in that capacity, be considered employees. Furthermore, for purposes of this section, the term employee includes a person exempt from civil service pursuant to subdivision (e) of Section 4 of Article VII of the California Constitution.

(c) Nothing in this article shall be construed to do any of the following:

(1) Prevent state bodies that administer the licensing of persons engaging in businesses or professions from holding closed sessions to prepare, approve, grade, or administer examinations.

(2) Prevent an advisory body of a state body that administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters that the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided the advisory body does not include a quorum of the members of the state body it advises. Those matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state body's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state body.

(3) Prohibit a state body from holding a closed session to deliberate on a decision to be reached in a proceeding

required to be conducted pursuant to Chapter 5 (commencing with Section 11500) or similar provisions of law.

(4) Grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state body from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

(5) Prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests that the donor or proposed donor has requested in writing to be kept confidential.

(6) Prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125.

(7)(A) Prevent a state body from holding closed sessions with its negotiator prior to the purchase, sale, exchange, or lease of real property by or for the state body to give instructions to its negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease.

(B) However, prior to the closed session, the state body shall hold an open and public session in which it identifies the real property or real properties that the negotiations may concern and the person or persons with whom its negotiator may negotiate.

BAGLEY-KEENE OPEN MEETING ACT - 2012

(C) For purposes of this paragraph, the negotiator may be a member of the state body.

(D) For purposes of this paragraph, "lease" includes renewal or renegotiation of a lease.

(E) Nothing in this paragraph shall preclude a state body from holding a closed session for discussions regarding eminent domain proceedings pursuant to subdivision (e).

(8) Prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

(9) Prevent the Council for Private Postsecondary and Vocational Education from holding closed sessions to consider matters pertaining to the appointment or termination of the Executive Director of the Council for Private Postsecondary and Vocational Education.

(10) Prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or information the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the Executive Officer of the Franchise Tax Board.

(11) Require the Franchise Tax Board to notice or disclose any confidential tax information considered in closed sessions, or documents executed in connection therewith, the public disclosure of which is prohibited pursuant to Article 2 (commencing with Section 19542) of

Chapter 7 of Part 10.2 of Division 2 of the Revenue and Taxation Code.

(12) Prevent the Corrections Standards Authority from holding closed sessions when considering reports of crime conditions under Section 6027 of the Penal Code.

(13) Prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

(14) Prevent the State Board of Education or the Superintendent of Public Instruction, or any committee advising the board or the Superintendent, from holding closed sessions on those portions of its review of assessment instruments pursuant to Chapter 5 (commencing with Section 60600) of, or pursuant to Chapter 9 (commencing with Section 60850) of, Part 33 of Division 4 of Title 2 of the Education Code during which actual test content is reviewed and discussed. The purpose of this provision is to maintain the confidentiality of the assessments under review.

(15) Prevent the California Integrated Waste Management Board or its auxiliary committees from holding closed sessions for the purpose of discussing confidential tax returns, discussing trade secrets or confidential or proprietary information in its possession, or discussing other data, the public disclosure of which is prohibited by law.

(16) Prevent a state body that invests retirement, pension, or endowment funds from holding closed sessions when considering investment decisions. For

BAGLEY-KEENE OPEN MEETING ACT - 2012

purposes of consideration of shareholder voting on corporate stocks held by the state body, closed sessions for the purposes of voting may be held only with respect to election of corporate directors, election of independent auditors, and other financial issues that could have a material effect on the net income of the corporation. For the purpose of real property investment decisions that may be considered in a closed session pursuant to this paragraph, a state body shall also be exempt from the provisions of paragraph (7) relating to the identification of real properties prior to the closed session.

(17) Prevent a state body, or boards, commissions, administrative officers, or other representatives that may properly be designated by law or by a state body, from holding closed sessions with its representatives in discharging its responsibilities under Chapter 10 (commencing with Section 3500), Chapter 10.3 (commencing with Section 3512), Chapter 10.5 (commencing with Section 3525), or Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 as the sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state body may also meet with a state conciliator who has intervened in the proceedings.

(18)(A) Prevent a state body from holding closed sessions to consider matters posing a threat or potential threat of criminal or terrorist activity against the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body, where disclosure of these considerations could compromise or impede the safety or

security of the personnel, property, buildings, facilities, or equipment, including electronic data, owned, leased, or controlled by the state body.

(B) Notwithstanding any other provision of law, a state body, at any regular or special meeting, may meet in a closed session pursuant to subparagraph (A) upon a two-thirds vote of the members present at the meeting.

(C) After meeting in closed session pursuant to subparagraph (A), the state body shall reconvene in open session prior to adjournment and report that a closed session was held pursuant to subparagraph (A), the general nature of the matters considered, and whether any action was taken in closed session.

(D) After meeting in closed session pursuant to subparagraph (A), the state body shall submit to the Legislative Analyst written notification stating that it held this closed session, the general reason or reasons for the closed session, the general nature of the matters considered, and whether any action was taken in closed session. The Legislative Analyst shall retain for no less than four years any written notification received from a state body pursuant to this subparagraph.

(19) Prevent the California Sex Offender Management Board from holding a closed session for the purpose of discussing matters pertaining to the application of a sex offender treatment provider for certification pursuant to Sections 290.09 and 9003 of the Penal Code. Those matters may include review of an applicant's qualifications for certification.

(d)(1) Notwithstanding any other

BAGLEY-KEENE OPEN MEETING ACT - 2012

provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

(2) Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, or disciplinary actions against any person or entity under the jurisdiction of the commission.

(e)(1) Nothing in this article shall be construed to prevent a state body, based on the advice of its legal counsel, from holding a closed session to confer with, or receive advice from, its legal counsel regarding pending litigation when discussion in open session concerning those matters would prejudice the position of the state body in the litigation.

(2) For purposes of this article, all expressions of the lawyer-client privilege other than those provided in this subdivision are hereby abrogated. This subdivision is the exclusive expression of the lawyer-client privilege for purposes of conducting closed session meetings pursuant to this article. For purposes of this subdivision, litigation shall be considered pending when any of the following circumstances exist:

(A) An adjudicatory proceeding before a court, an administrative body exercising its adjudicatory authority, a hearing officer, or an arbitrator, to which the state body is a party, has been initiated formally.

(B)(i) A point has been reached where, in the opinion of the state body on the advice of its legal counsel, based on existing facts and circumstances, there is a

significant exposure to litigation against the state body.

(ii) Based on existing facts and circumstances, the state body is meeting only to decide whether a closed session is authorized pursuant to clause (i).

(C)(i) Based on existing facts and circumstances, the state body has decided to initiate or is deciding whether to initiate litigation.

(ii) The legal counsel of the state body shall prepare and submit to it a memorandum stating the specific reasons and legal authority for the closed session. If the closed session is pursuant to paragraph (1), the memorandum shall include the title of the litigation. If the closed session is pursuant to subparagraph (A) or (B), the memorandum shall include the existing facts and circumstances on which it is based. The legal counsel shall submit the memorandum to the state body prior to the closed session, if feasible, and in any case no later than one week after the closed session. The memorandum shall be exempt from disclosure pursuant to Section 6254.25.

(iii) For purposes of this subdivision, "litigation" includes any adjudicatory proceeding, including eminent domain, before a court, administrative body exercising its adjudicatory authority, hearing officer, or arbitrator.

(iv) Disclosure of a memorandum required under this subdivision shall not be deemed as a waiver of the lawyer-client privilege, as provided for under Article 3 (commencing with Section 950) of Chapter 4 of Division 8 of the Evidence Code.

BAGLEY-KEENE OPEN MEETING ACT - 2012

(f) In addition to subdivisions (a), (b), and (c), nothing in this article shall be construed to do any of the following:

(1) Prevent a state body operating under a joint powers agreement for insurance pooling from holding a closed session to discuss a claim for the payment of tort liability or public liability losses incurred by the state body or any member agency under the joint powers agreement.

(2) Prevent the examining committee established by the State Board of Forestry and Fire Protection, pursuant to Section 763 of the Public Resources Code, from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

(3) Prevent the enforcement advisory committee established by the California Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent the qualifications examining committee established by the California Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

(4) Prevent a state body, as defined in subdivision (b) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in

closed session by the state body whose authority it exercises.

(5) Prevent a state body, as defined in subdivision (d) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the body defined as a state body pursuant to subdivision (a) or (b) of Section 11121.

(6) Prevent a state body, as defined in subdivision (c) of Section 11121, from conducting a closed session to consider any matter that properly could be considered in a closed session by the state body it advises.

(7) Prevent the State Board of Equalization from holding closed sessions for either of the following:

(A) When considering matters pertaining to the appointment or removal of the Executive Secretary of the State Board of Equalization.

(B) For the purpose of hearing confidential taxpayer appeals or data, the public disclosure of which is prohibited by law.

(8) Require the State Board of Equalization to disclose any action taken in closed session or documents executed in connection with that action, the public disclosure of which is prohibited by law pursuant to Sections 15619 and 15641 of this code and Sections 833, 7056, 8255, 9255, 11655, 30455, 32455, 38705, 38706, 43651, 45982, 46751, 50159, 55381, and 60609 of the Revenue and Taxation Code.

(9) Prevent the California Earthquake Prediction Evaluation Council,

BAGLEY-KEENE OPEN MEETING ACT - 2012

or other body appointed to advise the Secretary of Emergency Management or the Governor concerning matters relating to volcanic or earthquake predictions, from holding closed sessions when considering the evaluation of possible predictions.

(g) This article does not prevent either of the following:

(1) The Teachers' Retirement Board or the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters pertaining to the recruitment, appointment, employment, or removal of the chief executive officer or when considering matters pertaining to the recruitment or removal of the Chief Investment Officer of the State Teachers' Retirement System or the Public Employees' Retirement System.

(2) The Commission on Teacher Credentialing from holding closed sessions when considering matters relating to the recruitment, appointment, or removal of its executive director.

(h) This article does not prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering matters relating to the development of rates and competitive strategy for plans offered pursuant to Chapter 15 (commencing with Section 21660) of Part 3 of Division 5 of Title 2.

(i) This article does not prevent the Managed Risk Medical Insurance Board from holding closed sessions when considering matters related to the development of rates and contracting strategy for entities contracting or seeking

to contract with the board, entities with which the board is considering a contract, or entities with which the board is considering or enters into any other arrangement under which the board provides, receives, or arranges services or reimbursement, pursuant to Part 6.2 (commencing with Section 12693), Part 6.3 (commencing with Section 12695), Part 6.4 (commencing with Section 12699.50), Part 6.5 (commencing with Section 12700), Part 6.6 (commencing with Section 12739.5), or Part 6.7 (commencing with Section 12739.70) of Division 2 of the Insurance Code.

(j) Nothing in this article shall be construed to prevent the board of the State Compensation Insurance Fund from holding closed sessions in the following:

(1) When considering matters related to claims pursuant to Chapter 1 (commencing with Section 3200) of Division 4 of the Labor Code, to the extent that confidential medical information or other individually identifiable information would be disclosed.

(2) To the extent that matters related to audits and investigations that have not been completed would be disclosed.

(3) To the extent that an internal audit containing proprietary information would be disclosed.

(4) To the extent that the session would address the development of rates, contracting strategy, underwriting, or competitive strategy, pursuant to the powers granted to the board in Chapter 4 (commencing with Section 11770) of Part 3 of Division 2 of the Insurance Code, when discussion in open session concerning

BAGLEY-KEENE OPEN MEETING ACT - 2012

those matters would prejudice the position of the State Compensation Insurance Fund.

(k) The State Compensation Insurance Fund shall comply with the procedures specified in Section 11125.4 of the Government Code with respect to any closed session or meeting authorized by subdivision (j), and in addition shall provide an opportunity for a member of the public to be heard on the issue of the appropriateness of closing the meeting or session.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1968, c. 1272, p. 2396, § 1; Stats.1970, c. 346, p. 741, § 5; Stats.1972, c. 431, p. 791, § 43; Stats.1972, c. 1010, p. 1872, § 63, eff. Aug. 17, 1972, operative July 1, 1972; Stats.1974, c. 1254, p. 2713, § 1; Stats.1974, c. 1539, p. 3525, § 1; Stats.1975, c. 197, p. 570, § 1; Stats.1975, c. 959, p. 2238, § 5; Stats.1977, c. 730, p. 2318, § 5, eff. Sept. 12, 1977; Stats.1980, c. 1197, p. 4043, § 1; Stats.1980, c. 1284, p. 4338, § 11; Stats.1981, c. 180, p. 1096, § 1; Stats.1981, c. 968, p. 3688, § 12; Stats.1982, c. 454, p. 1842, § 40; Stats.1983, c. 143, § 187; Stats.1984, c. 678, § 1; Stats.1984, c. 1284, § 4; Stats.1985, c. 186, § 1; Stats.1985, c. 1091, § 1; Stats.1986, c. 575, § 1; Stats.1987, c. 1320, § 2; Stats.1988, c. 1448, § 29; Stats.1989, c. 177, § 2; Stats.1989, c. 882, § 2; Stats.1989, c. 1360, § 52; Stats.1989, c. 1427, § 1, eff. Oct. 2, 1989, operative Jan. 1, 1990; Stats.1991, c. 788 (A.B.1440), § 4; Stats.1992, c. 1050 (A.B.2987), § 17; Stats.1994, c. 26 (A.B.1807), § 230, eff. March 30, 1994; Stats.1994, c. 422 (A.B.2589), § 15.5, eff. Sept. 7, 1994; Stats.1994, c. 845 (S.B.1316), § 1; Stats.1995, c. 975 (A.B.265), § 3; Stats.1996, c. 1041 (A.B.3358), § 2; Stats.1997, c. 949 (S.B.95), § 8; Stats.1998, c. 210 (S.B.2008), § 1; Stats.1998, c. 972 (S.B.989), § 1; Stats.1999, c. 735 (S.B.366), § 9, eff. Oct. 10, 1999; Stats.2000, c. 1002 (S.B.1998), § 1; Stats.2000, c. 1055 (A.B.2889), § 30, eff. Sept. 30, 2000; Stats.2001, c. 21 (S.B.54), § 1, eff. June 25, 2001; Stats.2001, c. 243 (A.B.192), § 10;

Stats.2002, c. 664 (A.B.3034), § 93.7; Stats.2002, c. 1113 (A.B.2072), § 1; Stats.2005, c. 288 (A.B.277), § 1; Stats.2007, c. 577 (A.B.1750), § 4, eff. Oct. 13, 2007; Stats.2008, c. 179 (S.B.1498), § 91; Stats.2008, c. 344 (S.B.1145), § 3, eff. Sept. 26, 2008; Stats.2010, c. 328 (S.B.1330), § 81; Stats.2010, c. 32 (A.B.1887), § 2, eff. June 29, 2010; Stats. 2010, c. 618 (AB 2791), § 124; Stats. 2011, c. 357 (AB 813), § 1.)

11126.1. Record of topics discussed and decisions made at closed sessions; availability

The state body shall designate a clerk or other officer or employee of the state body, who shall then attend each closed session of the state body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction. Such minute book may, but need not, consist of a recording of the closed session.

(Added by Stats.1980, c. 1284, p. 4340, § 12. Amended by Stats.1981, c. 968, p. 3691, § 13.)

BAGLEY-KEENE OPEN MEETING ACT - 2012

11126.2. Closed session; response to confidential final draft audit report; public release of report

(a) Nothing in this article shall be construed to prohibit a state body that has received a confidential final draft audit report from the Bureau of State Audits from holding closed sessions to discuss its response to that report.

(b) After the public release of an audit report by the Bureau of State Audits, if a state body meets to discuss the audit report, it shall do so in an open session unless exempted from that requirement by some other provision of law.

(Added by Stats.2004, c. 576 (A.B.1827), § 2.)

11126.3. Disclosure of nature of items to be discussed in closed session; scope of session; notice of meeting; announcement of pending litigation; unnecessary disclosures; disclosures at open session following closed session

(a) Prior to holding any closed session, the state body shall disclose, in an open meeting, the general nature of the item or items to be discussed in the closed session. The disclosure may take the form of a reference to the item or items as they are listed by number or letter on the agenda. If the session is closed pursuant to paragraph (2) of subdivision (d) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the proceeding or disciplinary action

contemplated. However, should the body determine that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties if the proceeding or disciplinary action is commenced or that to do so would fail to protect the private economic and business reputation of the person or entity if the proceeding or disciplinary action is not commenced, then the state body shall notice that there will be a closed session and describe in general terms the purpose of that session. If the session is closed pursuant to subparagraph (A) of paragraph (2) of subdivision (e) of Section 11126, the state body shall state the title of, or otherwise specifically identify, the litigation to be discussed unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage.

(b) In the closed session, the state body may consider only those matters covered in its disclosure.

(c) The disclosure shall be made as part of the notice provided for the meeting pursuant to Section 11125 or pursuant to subdivision (a) of Section 92032 of the Education Code and of any order or notice required by Section 11129.

(d) If, after the agenda has been published in compliance with this article,

BAGLEY-KEENE OPEN MEETING ACT - 2012

any pending litigation (under subdivision (e) of Section 11126) matters arise, the postponement of which will prevent the state body from complying with any statutory, court-ordered, or other legally imposed deadline, the state body may proceed to discuss those matters in closed session and shall publicly announce in the meeting the title of, or otherwise specifically identify, the litigation to be discussed, unless the body states that to do so would jeopardize the body's ability to effectuate service of process upon one or more unserved parties, or that to do so would jeopardize its ability to conclude existing settlement negotiations to its advantage. Such an announcement shall be deemed to comply fully with the requirements of this section.

(e) Nothing in this section shall require or authorize a disclosure of names or other information that would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session or the disclosure of which is prohibited by state or federal law.

(f) After any closed session, the state body shall reconvene into open session prior to adjournment and shall make any reports, provide any documentation, and make any other disclosures required by Section 11125.2 of action taken in the closed session.

(g) The announcements required to be made in open session pursuant to this section may be made at the location announced in the agenda for the closed

session, as long as the public is allowed to be present at that location for the purpose of hearing the announcement.

(Added by Stats.1980, c. 1284, p. 4341, § 13. Amended by Stats.1981, c. 968, p. 3692, § 14; Stats.1987, c. 1320, § 3. Amended by Stats.1997, c. 949 (S.B.95), § 10; Stats.1998, c. 210 (S.B.2008), § 2; Stats.2001, c. 243 (A.B.192), § 11.)

11126.4. Closed sessions of Gambling Control Commission; information prohibited from being disclosed by law or tribal-state gaming compact; limitations; public notice

(a) Nothing in this article shall be construed to prevent the California Gambling Control Commission from holding a closed session when discussing matters involving trade secrets, nonpublic financial data, confidential or proprietary information, and other data and information, the public disclosure of which is prohibited by law or a tribal-state gaming compact.

(b) Discussion in closed session authorized by this section shall be limited to the confidential data and information related to the agenda item and shall not include discussion of any other information or matter.

(c) Before going into closed session the commission shall publicly announce the type of data or information to be discussed in closed session, which shall be recorded upon the commission minutes.

BAGLEY-KEENE OPEN MEETING ACT - 2012

(d) Action taken on agenda items discussed pursuant to this section shall be taken in open session.

(Added by Stats. 2005, c. 274 (S.B. 919), § 1.)

11126.5. Disorderly conduct of general public during meeting; clearing of room

In the event that any meeting is willfully interrupted by a group or groups of persons so as to render the orderly conduct of such meeting unfeasible and order cannot be restored by the removal of individuals who are willfully interrupting the meeting the state body conducting the meeting may order the meeting room cleared and continue in session. Nothing in this section shall prohibit the state body from establishing a procedure for readmitting an individual or individuals not responsible for willfully disturbing the orderly conduct of the meeting. Notwithstanding any other provision of law, only matters appearing on the agenda may be considered in such a session. Representatives of the press or other news media, except those participating in the disturbance, shall be allowed to attend any session held pursuant to this section.

(Added by Stats.1970, c. 1610, p. 3385, § 1.
Amended by Stats.1981, c. 968, p. 3692, § 15.)

11126.7. Fees

No fees may be charged by a state body for providing a notice

required by Section 11125 or for carrying out any provision of this article, except as specifically authorized pursuant to this article.

(Added by Stats.1980, c. 1284, p. 4341, § 14.
Amended by Stats.1981, c. 968, p. 3692, § 16.)

11127. Application of article

Each provision of this article shall apply to every state body unless the body is specifically excepted from that provision by law or is covered by any other conflicting provision of law.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3692, § 17.)

11128. Time of closed session

Each closed session of a state body shall be held only during a regular or special meeting of the body.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1980, c. 1284, p. 4341, § 15;
Stats.1981, c. 968, p. 3692, § 18.)

11128.5. Adjournment; declaration; notice; hour for reconvened meeting

The state body may adjourn any regular, adjourned regular, special, or adjourned special meeting to a time and place specified in the order of adjournment. Less than a quorum may so adjourn from time to time. If all members are absent from any regular or

BAGLEY-KEENE OPEN MEETING ACT - 2012

adjourned regular meeting, the clerk or secretary of the state body may declare the meeting adjourned to a stated time and place and he or she shall cause a written notice of the adjournment to be given in the same manner as provided in Section 11125.4 for special meetings, unless that notice is waived as provided for special meetings. A copy of the order or notice of adjournment shall be conspicuously posted on or near the door of the place where the regular, adjourned regular, special, or adjourned special meeting was held within 24 hours after the time of the adjournment. When a regular or adjourned regular meeting is adjourned as provided in this section, the resulting adjourned regular meeting is a regular meeting for all purposes. When an order of adjournment of any meeting fails to state the hour at which the adjourned meeting is to be held, it shall be held at the hour specified for regular meetings by law or regulation.

(Added by Stats.1997, c. 949 (S.B.95), § 11.)

11129. Continuance; posting notice

Any hearing being held, or noticed or ordered to be held by a state body at any meeting may by order or notice of continuance be continued or recontinued to any subsequent meeting of the state body in the same manner and to the same extent set forth in Section 11128.5 for the adjournment of meetings. A copy of the order or notice of continuance shall be conspicuously

posted on or near the door of the place where the hearing was held within 24 hours after the time of the continuance; provided, that if the hearing is continued to a time less than 24 hours after the time specified in the order or notice of hearing, a copy of the order or notice of continuance of hearing shall be posted immediately following the meeting at which the order or declaration of continuance was adopted or made.

(Added by Stats.1967, c. 1656, p. 4026, § 122.
Amended by Stats.1981, c. 968, p. 3692, § 19.
Amended by Stats.1997, c. 949 (S.B.95), § 12.)

11130. Actions to prevent violations or determine applicability of article; validity of rules discouraging expression; audio recording of closed sessions; discovery procedures for recordings

(a) The Attorney General, the district attorney, or any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of stopping or preventing violations or threatened violations of this article or to determine the applicability of this article to past actions or threatened future action by members of the state body or to determine whether any rule or action by the state body to penalize or otherwise discourage the expression of one or more of its members is valid or invalid under the laws of this state or of the United States, or to compel the state body to audio record its closed sessions as hereinafter provided.

BAGLEY-KEENE OPEN MEETING ACT - 2012

(b) The court in its discretion may, upon a judgment of a violation of Section 11126, order the state body to audio record its closed sessions and preserve the audio recordings for the period and under the terms of security and confidentiality the court deems appropriate.

(c)(1) Each recording so kept shall be immediately labeled with the date of the closed session recorded and the title of the clerk or other officer who shall be custodian of the recording.

(2) The audio recordings shall be subject to the following discovery procedures:

(A) In any case in which discovery or disclosure of the audio recording is sought by the Attorney General, the district attorney, or the plaintiff in a civil action pursuant to this section or Section 11130.3 alleging that a violation of this article has occurred in a closed session that has been recorded pursuant to this section, the party seeking discovery or disclosure shall file a written notice of motion with the appropriate court with notice to the governmental agency that has custody and control of the audio recording. The notice shall be given pursuant to subdivision (b) of Section 1005 of the Code of Civil Procedure.

(B) The notice shall include, in addition to the items required by Section 1010 of the Code of Civil Procedure, all of the following:

(i) Identification of the proceeding in which discovery or disclosure is sought, the party seeking discovery or disclosure, the date and time of the meeting recorded, and the governmental agency that has custody and control of the recording.

(ii) An affidavit that contains specific facts indicating that a violation of the act occurred in the closed session.

(3) If the court, following a review of the motion, finds that there is good cause to believe that a violation has occurred, the court may review, in camera, the recording of that portion of the closed session alleged to have violated the act.

(4) If, following the in camera review, the court concludes that disclosure of a portion of the recording would be likely to materially assist in the resolution of the litigation alleging violation of this article, the court shall, in its discretion, make a certified transcript of the portion of the recording a public exhibit in the proceeding.

(5) Nothing in this section shall permit discovery of communications that are protected by the attorney-client privilege.

(Added by Stats.1967, c. 1656, p. 4026, § 122. Amended by Stats.1969, c. 494, p. 1106, § 1; Stats.1981, c. 968, p. 3693, § 20; Stats.1997, c. 949 (S.B.95), § 13; Stats.1999, c. 393 (A.B.1234), § 4; Stats.2009, c. 88 (A.B.176), §

BAGLEY-KEENE OPEN MEETING ACT - 2012

43.)

11130.3. Judicial determination action by state body in violation of §§ 11123 or 11125 null and void; action by interested person; grounds

(a) Any interested person may commence an action by mandamus, injunction, or declaratory relief for the purpose of obtaining a judicial determination that an action taken by a state body in violation of Section 11123 or 11125 is null and void under this section. Any action seeking such a judicial determination shall be commenced within 90 days from the date the action was taken. Nothing in this section shall be construed to prevent a state body from curing or correcting an action challenged pursuant to this section.

(b) An action shall not be determined to be null and void if any of the following conditions exist:

(1) The action taken was in connection with the sale or issuance of notes, bonds, or other evidences of indebtedness or any contract, instrument, or agreement related thereto.

(2) The action taken gave rise to a contractual obligation upon which a party has, in good faith, detrimentally relied.

(3) The action taken was in substantial compliance with Sections 11123 and 11125.

(4) The action taken was in connection with the collection of any tax.

(Amended by Stats.1999, c. 393 (A.B.1234), § 5.)

11130.5. Court costs and attorney fees

A court may award court costs and reasonable attorney's fees to the plaintiff in an action brought pursuant to Section 11130 or 11130.3 where it is found that a state body has violated the provisions of this article. The costs and fees shall be paid by the state body and shall not become a personal liability of any public officer or employee thereof.

A court may award court costs and reasonable attorney's fees to a defendant in any action brought pursuant to Section 11130 or 11130.3 where the defendant has prevailed in a final determination of the action and the court finds that the action was clearly frivolous and totally lacking in merit.

(Added by Stats.1975, c. 959, p. 2240, § 6.
Amended by Stats.1981, c. 968, p. 3693, § 21;
Stats.1985, c. 936, § 2.)

11130.7. Violations; misdemeanor

Each member of a state body who attends a meeting of that body in violation of any provision of this article, and where the member intends to deprive the public of information to which the member knows or has reason

BAGLEY-KEENE OPEN MEETING ACT - 2012

to know the public is entitled under this article, is guilty of a misdemeanor.

(Added by Stats.1980, c. 1284, p. 4341, § 16.
Amended by Stats.1981, c. 968, p. 3693, § 22.
Amended by Stats.1997, c. 949 (S.B. 95), § 14.)

11131. Use of facility allowing discrimination; state agency

No state agency shall conduct any meeting, conference, or other function in any facility that prohibits the admittance of any person, or persons, on the basis of ancestry, or any characteristic listed or defined in Section 11135 or that is inaccessible to disabled persons, or where members of the public may not be present without making a payment or purchase. As used in this section, "state agency" means and includes every state body, office, officer, department, division, bureau, board, council, commission, or other state agency.

(Added by Stats.1970, c. 383, p. 798, § 1.
Amended by Stats.1981, c. 968, p. 3693, § 23.
Amended by Stats.1997, c. 949 (S.B.95), § 15.;
Stats. 2007, c. 568 (A.B. 14), § 32.)

11131.5. Identity of victims or alleged victims of crimes, tortious sexual conduct, or child abuse; public disclosure

No notice, agenda, announcement, or report required under this article need identify any victim or alleged victim of crime, tortious sexual conduct, or child abuse unless the

identity of the person has been publicly disclosed.

(Added by Stats.1997, c. 949 (S.B.95), § 16.)

11132. Closed session by state body prohibited

Except as expressly authorized by this article, no closed session may be held by any state body.

(Added by Stats.1987, c. 1320, § 4.)



Bagley-Keene Open Meeting Act

Government Code Sections 11120 - 11132



Purpose

Sunshine provision

The Legislature envisioned that an additional seat on the board is reserved for the public

Affords the public an ability to monitor and participate in the decision-making process



Who is covered?

State Multimember boards and commissions

1) SCDD

a) committees

b) subcommittees

2) AB

3) Any group of 2 or more members



Notice

- 10 day notice:
 - a) sent to members
 - b) posted on the internet
 - c) sent to all persons requesting it
- Notice must include:
 - a) date, time and address of the meeting
 - b) provide name and contact info for the contact person



Notice (cont.)

- An agenda with a brief description of each item (20 words or less)
- The notice must be available in alternative formats, if requested
 - a) the notice must include the manner and deadline for such request
- Items not on the agenda cannot be discussed
 - a) Items cannot be added onto the agenda within the 10-day limitation



“Regular” Meetings

Bagley-Keene applies to:

“Regular” meetings

a) Whenever a quorum of the body convenes:

- * to vote or,
- * receive information (operation vs. program)
 - this includes pre-meeting briefings if a quorum is present



Serial Meetings

Serial meetings

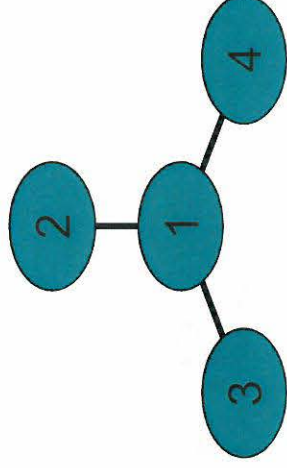
- a) Series of communications which “taken as a whole” involve the majority of members
 - * conversations that clarify members’ understanding of an issue; or,
 - * facilitate agreement/compromise or, advance the ultimate resolution of an issue (voting)

Serial Meetings (cont.)

b) linear communications

$1 \rightarrow 2 \rightarrow 3 \rightarrow 4$

c) Hub communications





Serial Meetings (cont.)

Final Note:

Conversations between members regarding business should only occur during the public meeting and should allow opportunity for discussion in public.

Avoid “shop talk” or emails and text messages, outside of or during meetings



Meetings by Teleconference

Are permitted so long as:

- * each site from where a member is calling is fully accessible to the public
- * each location's address is noted on the notice of the meeting
- * votes are taken by roll call



Voting

An agency may not vote by secret ballot in a public meeting on any matter where discussion, deliberations, or action taken is required to be in an open meeting. (68 Ops.Cal.Atty.Gen. 65, 69)

Cannot elect officers by secret ballot

Cannot conduct voting by proxy



Closed Sessions

- Must be listed as “closed session”
- The issues to be discussed must be publicly announced
- Confidential minutes must be kept
- May be held for specific reasons:
 - a) personnel
 - b) pending litigation



Remedies

- Overturn decision or action
- Start the process over
- Lawsuit
 - a) must be filed within 90 days of alleged breach
- Misdemeanor
 - a) if there was an intent to deceive the public

CALIFORNIA FAIR POLITICAL PRACTICES COMMISSION (FPPC)

ETHICS ORIENTATION FOR STATE OFFICIALS

Area Board VII

April 2011

California's Political Reform

Act is the law that covers conflict – of – interest provisions that apply to certain public officials.

Public Officials refers to elected or appointed officers and employees. The officials who are subject to the Public Reform Act at Area Board VII are:

the members of the Board of Directors --
as appointed officers and
the Executive Director –as an appointed
employee

What is meant by a conflict of interest?

It only refers to situations where a government decision or action might affect your economic (financial) interests. It does not apply to any other “conflict” – like for example, a conflict between the decision and your personal beliefs.

Some examples:

You are the part owner of an office building in San Jose. You vote to approve a lease for Area Board VII to move into the building you co-own. Is that a conflict of interest?

You strongly believe that all children should be educated in inclusive settings like your son. You support a motion to close all segregated schools in the Scott's Valley Unified School District. Is that a conflict of interest?

How to figure out whether you have a conflict of interest?

- a) Are you a public official? -- Yes
- b) Are you making a governmental decision – yes if you are voting on or making a recommendation to a policymaker.
- c) Do you have an economic interest in the matter at hand? Does it involve a business or property of yours? Does it involve income or a gift to you? Will the decision affect your or your family's personal finances?

Do all conflicts of interest disqualify you from participating in the decision or action?

No, depends on a variety of factors.

For example, if the decision is likely to affect a sizeable percentage of the population, an exception can be made.

Example: You vote to support a change in law that would permit all parents with an adult child with a developmental disability to receive a tax credit and you have an adult child with a developmental disability.

Example: You vote to support a tax credit for parents of children with Cerebral Palsy only. You are the parent of a child with Cerebral Palsy.

What are “Incompatible Activities”?

Answer: Activities that conflict with your position as a State Official.

Examples:

Use of your title, your access to confidential information, your use of state equipment for private gain.

Receiving funds from a private source for carrying out your state duties.

Is this an incompatible activity?

You give out your Area Board business card at a parent support group and tell the parents that as a state official you will represent them in IEPs at a reduced charge.

You are paid a stipend from the regional center for participating as an Area Board VII member on a DDS task force.

You participate in a budget protest at the Capitol with other consumers who are served by the United Cerebral Palsy Association.

Misuse of Public Funds

Public funds are to be used solely for the benefit of the public, not for personal use.

Examples of Misuse of Public Funds:

You take a state vehicle for a family trip.

You use state employees to renovate your garage.

You use your government discount card to purchase items for your family.

Prohibitions on Political Activities

May not expend public funds to promote a partisan position in an election campaign. This applies to both elections for an office or a ballot measure.

Exceptions?

It is acceptable to provide public information that explains the impact of a ballot measure so long as it is presented in a balanced way.

Additional Information on California's Ethics Laws:

California Attorney General

This site hosts the Internet course "Ethics Orientation for State Officials"

<http://ag.ca.gov>

Attorney General's Conflicts of Interest Pamphlet

<http://ag.ca.gov/publication/coi.pdf>

California Fair Political Practices Commission

<http://www.fppc.ca.gov>

State Council on Developmental Disabilities

AREA BOARD VII

BY-LAWS

ARTICLE I: NAME

The name of this Board shall be State Council on Developmental Disabilities - Area Board VII, State of California, hereinafter referred to as "Area Board VII" or "The Board".

ARTICLE II: AUTHORITY

Area Board VII is established by, and shall operate always in accordance with the provisions of the Lanterman Developmental Disabilities Act [Welfare & Institutions Code § 4500 and following], hereinafter referred to as the Lanterman Act, as passed by, and as may be amended by the Legislature of the State of California.

ARTICLE III: PURPOSE

The chief function of Area Board VII is to guarantee the legal, civil and service rights of persons with developmental disabilities and to carry out the responsibilities and duties assigned to it by the Lanterman Disabilities Services Act and the Goals and Objectives of the State Plan.

ARTICLE IV: PRINCIPAL OFFICE

The principal office of the Area Board VII shall be located in the County of Santa Clara, California. The Area Board may change the principal office from one location to another within the county.

ARTICLE V: AREA OF SERVICE

Area Board VII shall carry out the responsibilities and duties assigned to it by the Lanterman Act in Monterey, San Benito, Santa Clara and Santa Cruz Counties.

ARTICLE VI: MEMBERSHIP

1. **Appointments:** Area Board VII will consist of up to 17 members; 3 appointed by each of the County Boards of Supervisors and 5 appointed by the Governor. To the extent feasible, Area Board VII membership will consist of: 60% persons with developmental disabilities and/or parents or relatives of persons with developmental disabilities; 40% representatives of the general public [WIC § 4546]. All members of the Area Board appointed by the County Board of Supervisors shall be residents of, represent, and be appointed by the county of their residence. Governor appointments may be made from anywhere within the geographic boundaries served by the Area Board.
2. **Term of Office:** In counties with a population of 100,000 or more, no member shall serve more than two consecutive three-year terms. A member may continue to serve until the appointing body appoints that member's successor [WIC § 4546].
3. **Conflict of Interest:** Board members are responsible for avoiding potential conflicts of interests and completing a Form 700 each year [WIC § 4546].
4. **Vacancies:** Members are responsible for attending all Board meetings. If a member notifies the Chair or the Executive Director in advance, his/her absence may be excused. The Board will notify the appointing authority of any member who has been absent without excuse from three consecutive Board meetings or four Board meetings in one calendar year and who has been forewarned, and request that a replacement for the absent member be appointed. All vacancies on the Board will be processed for filling immediately.

ARTICLE VII: OFFICERS

1. **Officers:** The officers of Area Board VII shall be: Chair, Vice-Chair and Secretary. The Chair must be a person with developmental disabilities or immediate relative, guardian, or conservator of such a person [WIC § 4547(b)(1)].

2. **Duties:** The major duties of the officers are:

Chair: Preside at Board meetings and cause meeting agendas to be prepared; appoint committee members and Committee Chair; represent or provide representation from the Area Board at meetings of other groups; serve as a spokesperson for Area Board VII.

Vice-Chair: Assist the Chair and Serve as Chair in the absence of Chair. The Vice-Chair causes the Strategic Plan to be reviewed at least bi-annually.

Secretary: Keep or cause to be kept motions by the Board: record and publish committee appointments, oversee the minutes; keep meeting attendance, record and shall notify in writing any board member who has been absent without excuse from two (2) consecutive Board meetings or three (3) meetings since the beginning of the calendar year.

3. **Term:** The officers shall serve two years or until their successors are elected.

4. **Election:** At least 10 days before the annual meeting of the Board, the Nominating Committee shall cause to be mailed to all members of the Board its nomination of one person to fill each office. Providing the consent of the nominee has been obtained, any qualified member of the Board may be nominated from the floor for any office [WIC § 4547(b)(1)]. If an officer(s) is/are not available or fails to serve his/her term of office or a majority of the Board requests an annual election in off years, a Nominating Committee shall be appointed and a special election shall be scheduled by the chair. Special elections may be held following ten (10) days written notice.

ARTICLE VIII: COMMITTEES

1. **Committees:** There shall be an Executive Committee, a Nominating Committee, a Consumer Advisory Committee, a Board Development Committee and such additional Standing and Ad Hoc Committees as the Board deems necessary. As appropriate, Committee Chairs will complete a review of their committee's current work with recommendations and submit their report at the Board meeting.
2. **Committee Membership:** The Chair shall fix the number of members of each Standing and Ad Hoc Committee and appoint its members and Chair [WIC § 4547(b)(1)]. The Chair of each Committee shall be a member of the Board. Unless otherwise provided by these By-Laws, or specifically determined by the Board, persons who are not voting members of the Board may be appointed to any Standing or Ad Hoc Committee with the exception of the Executive and Nominating Committees. Any Standing or Ad Hoc Committee may appoint sub-committees to facilitate its work and may request and use the participation and assistance of persons who are not members of the Board or the Committee.
3. **Executive Committee:** The Executive Committee shall serve as the coordinating body to the Area Board. The Committee shall consist of the officers of the Board and Chair of the Board Development Committee and Chair of the Consumer Advisory Committee. When timely action is required, the Executive Committee shall have the power to act on behalf of the Board. All actions of the Executive Committee shall be recorded and reported at the Board meeting immediately following the Executive Committee meeting at which the actions were taken. The Board will vote to approve or amend all actions of the Executive Committee. In the absence of modifications or reversal by the Board, the actions of the Executive Committee shall be final.
4. **Nominating Committee:** The Nominating Committee shall have at least two members. To the extent feasible, the Nominating Committee shall represent each of the four counties on alternate elections.

5. **Board Development Committee:** The Board Development Committee will be responsible for the orientation and training of new Board Members and will assist with identification of potential Board Members as vacancies occur.
6. **Consumer Advisory Committee:** The Consumer Advisory Committee will advise the Board of issues and concerns of self-advocates.

ARTICLE IX: MEETINGS

1. **Open Meetings:** The Board recognizes that it is a "state body" as defined by the Bagley-Keene Act [Government Code sections 11120 and following] and that its meetings are subject to the provisions of the code [WIC § 4547(a) & 4553(c)(3)].
2. **Frequency:** Area Board VII shall meet at least quarterly, a minimum of 4 times annually, and as frequently as deemed necessary by its Chair to fulfill its duties with adequate notice given to Board members and interested parties [WIC § 4547(a) & 4553(c)(3)]. The Executive Committee will meet prior to each Board meeting.
3. **Annual Meetings:** The December meeting shall be designated the Annual Meeting of Area Board VII. At this meeting officers will be elected on alternating years. Broad based goals may be proposed for the coming year.

ARTICLE X: PROCEDURES

1. **Rules of Order:** Unless otherwise provided in these By-Laws, business of Area Board VII shall be conducted under the Robert's Rules of Order, Revised (latest edition).
2. **Quorum:** A quorum for transaction of business by the Board shall be a majority of current Board membership.

3. **Voting:** All votes must be cast in person, not by proxy.
4. **Actions:** All actions of the Board and its committees shall be approved by the Board. The affirmative votes of a majority of the current members of the Board shall be necessary for election of Officers, approval of Executive Director or By-Law changes.
5. **Records:** All records of Area Board VII, except personnel matters, shall be open to the public [WIC § 4547(a) & 4553(c)(3)].
6. **Reimbursement:** The members of an Area Board shall serve without compensation, but shall be reimbursed for any actual and necessary expenses incurred in connection with the performance of their duties as members of the board or of committees established by the board [WIC § 4546 (k)]. Such reimbursement shall be in accordance with the State Controller's Office rules for state employees. The Executive Director will collect, or cause to be collected, the travel claim forms for submission to the appropriate disbursing office.
7. **Policies:** Board policy statements shall be appended to the By-Laws.

ARTICLE XI: STAFF

1. **Executive Director:** Area Board VII shall employ an Executive Director. The Executive Director shall carry out the policies and assignments of the Board and shall hire, direct and discharge incumbents in any other staff positions approved by the Board. The Executive Director shall serve ex-officio without vote on all Committees of the Board, except the Nominating Committee. Appointment or removal of the Executive Director requires a majority vote of the current Board membership and approval of the State Council on Developmental Disabilities [WIC § 4553(c)(1)].
2. **Contracts:** The Board may, from time to time, negotiate personal service contracts with individuals to perform advisory, consultative or staff services to

facilitate carrying out the Board's functions. When such contracts are authorized, the Board shall specify the person or group to whom the individual contracted with is responsible in the performance of the services authorized. [WIC § 4553(c)(2)].

ARTICLE XII: AMENDMENTS

These By-Laws may be altered, amended or repealed and new By-Laws adopted by the affirmative vote of a majority of current members of the Board. Written notice of such meeting and intended change shall be delivered to each member 10 days prior to the date of the meeting.

ARTICLE XIII: EFFECTIVE DATE OF BYLAW AND AMENDMENTS

These By-Laws shall become effective immediately upon their adoption.

Amended 8/9/ 2011

AUTHORIZED REPRESENTATIVE PROCESS

The appointment of authorized representative (AR) by area boards has been a topic of significant discussion, and also of some concern, for many years; however, in recent months, several issues have arisen around the AR process that require some clarification surrounding: 1) the legal authority for appointing an AR, 2) appropriate decision making standards, 3) authority vested in an AR, and 4) the process for evaluating the appointment of an AR, including how to make "good cause" determinations

Legal Authority

In order to disentangle the issues surrounding the AR process, it is important to begin with a review of the enabling statute. Although there are other sections in the Lanterman Act (and elsewhere in the law) that refer to ARs, the section below (emphasis added) is the basis for the appointment of an area board appointed authorized representative:

4548. (d) (1) *The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative.*

(2) *Where there is no guardian or conservator, the person's choice, if expressed, including the right to reject the assistance of a representative, shall be honored. If the person does not express a preference, the order of preference for selection of the representative shall be the person's parent, involved family member, or a volunteer selected by the area board. In establishing these preferences, it is the intent of the Legislature that parents or involved family members shall not be required to be appointed guardian or conservator in order to be selected. Unless the consumer expresses otherwise, or good cause otherwise exists, the request of the parents or involved family members to be appointed the representative shall be honored.*

(3) *Where appropriate pursuant to this section, the area board shall appoint a representative to advocate the rights and protect the interests of a person residing in a developmental center for whom community placement is proposed pursuant to Section 4803.*

(4) The area board shall identify any evidence of the denial of these rights, shall inform the appropriate local, state, or federal officials of their findings, and shall assist these officials in eliminating all forms of discrimination against persons with developmental disabilities in housing, recreation, education, health and mental health care, employment, and other service programs available to the general population.

Decisionmaking Standards

In order to define the appropriate decision making standard for ARs, it is important to know that in California, all individuals have the capacity to make decisions and give consent on all personal and legal matters; however one of the main exceptions to this presumption is the conservatorship process. Individuals subjected to a conservatorship generally have their right to make certain decisions and give consent removed from them. For that reason, the enabling AR statute expressly exempts individuals with conservators from having an AR appointed.

When making decisions, or providing representation, for an individual other than oneself, the appropriate decision making standard must be utilized. There are three basic decision making standards that are used when an individual is being represented by another person in various settings (medical, legal representation, advocacy representation, etc.) with the Expressed Interests Standard being the most appropriate standard for an AR.

1. Expressed Interests Standard – Under this standard, the representative refers to the explicit instructions, desired outcomes and wishes expressed by the individual when making a decision. Under this standard, the representative makes decisions in accordance with the individual's prior statement.

This is the ideal standard because it is closest to the individual making his/her own decision and representing themselves. An AR should always strive to utilize the express interest standard since this is the standard implied in the enabling statute above.

2. Substituted Judgment Standard - Under this standard, the representative refers to the individual's values, beliefs, character traits, and past decisions in order to make an educated guess with regard to what the individual would decide in this particular instance. Essentially, the representative is trying to use the individual's own standards to make the decision.

The representative must know the individual well enough to accurately estimate his/her wishes.

This is the ideal standard for those who cannot communicate because it allows the individual's values to be the guide in decision-making and representation. This eases the burden on the representative by providing the sense that the individual made the decision, not the representative. Keep in mind that this standard is still an estimate of the individual's preferences.

Some argue that the Best Interests Standard would be preferable to a guess. They argue that it gives a false sense of autonomy since the individual's values might change and the application of values to actual cases can lead to multiple conclusions.

3. Best Interests Standard - This standard is used when you have no indication of what the individual's values are or what he/she wants; therefore, you use your own judgment in conjunction with applicable laws, regulatory standards and principles. The representative decides what is in the individual's best interests.

This is the least preferred standard for most cases because the representative uses his/her own values to interpret what is in the individual's best interests. This places a heavy burden on the representative. However, in the event that the individual is unable to communicate or express their wishes AND the area board staff member has determined that the individual's rights will be violated, this standard may be preferable since it relies heavily on a thorough examination of the law, regulations and principles in conjunction with the AR's judgment. If an AR will use this standard, in no event should the AR advocate against the individual wishes.

Conservatorships also utilize the Best Interests Standard because they have been legally authorized to make decisions and represent the individual in full. The conservator must make her decisions based on the best interests of the conservatee. This means that after diligent consideration of the facts, the conservator may represent the individual against their wishes and with different anticipated outcomes. (Probate Code §2355(a)).

In sum, the Expressed Interests Standard is the appropriate standard for ARs; however, in the absence of any expressed communication/interpreted behaviors from the individual expressing their preferences, the AR may utilize the Best Interests Standard IF area board staff have determined that the individual's rights will not be protected without an AR appointment and the AR relies on current law, regulations and well established legal principles that protect individual rights and autonomy.

Authority of the Authorized Representative

As provided in the enabling statute, the AR has the authority to assist the individual in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices. In addition to general advocacy matters, the law provides for the following specific situations (this is not an fully inclusive or restrictive list):

WIC 4803 - Advocate for the rights and protect the interests of a person residing in a developmental center for whom community placement is proposed.

WIC 4418.3 - Work with Regional Resource Developmental Project in transition planning.

WIC 4646(b) - Actively participate in the developmental of the individual's IPP. An AR may not sign in the individual's stead or consent to the IPP; the AR is considered an additional participant/advocate during the process and signs as a participant only.

WIC 4648(a)(6) - Assist in the consideration of selecting a provider of services and/or supports.

WIC 4700 - File a request for an administrative fair hearing.

WIC 4685.7 - Receive two individual budges amounts for the Self-Directed Services Program and assist the individual when selecting one of the two budgets for the program. Also the AR can assist the individual during the SDS process.

However, this section includes a provision for designating an "authorized representative" for SDS planning at subsection (m). This authorized representative has different criteria and should not be confused with the area board AR. Both the AR appointment and authorized representative selection will have similar roles in this section only.

Process for Evaluating the Appointment of an Authorized Representative

In general, 4548 (d) provides that an AR appointment may be made in three instances: 1) when a person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent them and the person requested the appointment, 2) when a person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent them and the area board has determined that the rights or interest of the person will not be properly protected or advocated without the appointment of a representative and, 3) when placement in the

community is proposed for an individual who resides in a developmental center and the area board has determined that the rights or interests of the person will not be properly protected or advocated.

It is imperative to note that the appointment of an AR is permissive for advocacy purposes only.

The basic steps in evaluating the appropriateness of an AR appointment are:

1. **Communicate with the individual.** Regardless of who made the initial request and how the request was made, the first step must always be to contact the individual. Some of the pertinent questions that will assist area board staff in evaluating the request are: a) does the individual want an AR appointed and if so, is there any family member who they would prefer to be appointed as AR, b) what are the specific advocacy issues involved, c) what are the individual's preferred outcomes and wishes for each issue, d) is the individual already working with another agency and, e) can the individual advocate independently, or with assistance from the area board without an AR appointment. Also, area board staff should obtain a release of confidential information from the individual, if appropriate.
2. **Contact the regional center, developmental center, other agencies or, family members, if appropriate.** Area board staff should contact any other entity or family member involved (if authorized to do so by the individual) in order to obtain any additional information that would clarify the advocacy issues involved, to determine if advocacy is already being provided or, to assist in determining the complexity of the issues involved. Also, if it is a family member or agency that is requesting the AR appointment, area board staff should ask: 1) what is the proposed outcome/purpose of the AR request and, 2) what specific authority is the proposed AR seeking.
3. **Conduct any appropriate research into the advocacy issues.** If the issues are complex and require further analysis, staff should conduct research and consult with other experts to fully understand the advocacy issues and evaluate possible outcomes, if possible.

In addition, if the AR request involves a request for specific authority (such as filing for a request for fair hearing, being appointed as a developmental services decision maker by the local Superior Court/dependency court, *see Specific Authority Section*) additional research will be required to determine the scope and appropriateness of the AR appointment.

4. **Conduct a thorough analysis.** Area board staff must take all of the information obtained in the first three steps and thoroughly analyze the information to ensure

that an appropriate determination is made when considering the appointment of an AR.

a. Individual preference for an AR appointment

If the individual expressed a preference of not having an AR appointment, no further evaluation is necessary; no AR appointment should be made. If the individual expressed a preference for having an AR appointed or, if they expressed a preference to have a family member appointed, continue the evaluation.

b. "Good cause" determination

If the individual expressed a preference for the AR appointment of a family member, area board staff must analyze whether there is "good cause" to not appoint the family member. Good cause is a legal term denoting adequate or substantial grounds or reason to take a certain action, or not take an action prescribed by law. What constitutes a good cause is usually determined on a case by case basis and is thus relative to the facts in each case.

If after contact with the family member, area board staff become aware of any of the following: 1) the individual and family member have different outcome preference(s), 2) the family member does not understand the advocacy issues or how to resolve them, 3) the family member is currently under relevant legal proceedings (abuse/fraud investigation, restraining order, etc.), 4) or any other situation that would create a barrier in appropriately fulfilling their role as an AR, the family member should not be appointed.

c. Advocacy issues

Area board staff should analyze the complexity of each advocacy issue independently to determine which, if any, of them can be resolved by any other means (providing advocacy assistance, by involving family members or referring to other agencies.) If any, or all, issues can be resolved by advocacy, by involving family members or by referring to other agencies, no AR appointment should be made. The appointment of an AR should be the last resort when attempting to address any advocacy issues. If direct advocacy, natural support, or referrals do not address the issues presented, continue the evaluation.

However, if the issue requires an AR appointment for a specific purpose (filing of a fair hearing request) and all other areas have been explored, continue the evaluation.

d. Wishes and desired outcomes of the individual

Once the individual advocacy issues are outlined, staff must analyze each issue individually with respect to how the individual wants each issue resolved. Are those resolutions legally possible? Is the appointment of an AR required to reach any resolutions?

If the desired outcomes are legally possible and can be attempted without an AR appointment, do not appoint an AR. If the desired outcomes may require the appointment of an AR, continue the evaluation.

e. Other advocacy resources

Staff must analyze whether the individual is able to advocate on their own behalf, or whether they can advocate with assistance from the area board without the appointment of an AR. If so, advocacy or technical assistance should be provided without appointing an AR.

This would remain true if the individual is currently working with another advocacy agency or if there are involved family members that are providing advocacy and need technical assistance from the area board.

In many instances, other agencies will contact the area board and request that an AR be appointed to fulfill different roles (to sign consent forms, to sign off on an IPP, etc); however, it is imperative to remember the AR appointment does not give substituted consent authority to the AR. Therefore, an AR appointment would not be appropriate in these cases.

5. **Conclusion of the evaluation.** At the end of the evaluation, if the staff member has not concluded that the AR appointment is inappropriate **AND** has determined that the individual's rights or interests cannot be properly protected or advocated without the appointment of an AR, proceed with the appointment.

In the event that the individual cannot communicate for themselves, they have no involved family member or natural support **AND** the individual's rights may not be protected without an AR appointment, proceed with the appointment.

One final consideration would be for staff to consider the specific request for AR appointment and limit the appointment to those instances where the AR is appropriate. For example, if the request for AR was made to file a fair hearing request on a specific issue, limit the AR appointment to that one fair hearing request.

If there are any further questions, please feel free to contact SCDD Attorney.

Request for Appointment as Authorized Representative
(pursuant to Section 4548 (d)(1) WIC)

Date _____

Name of Consumer _____ DOB _____

Please respond as fully as possible:

Does the consumer know that you are requesting to be appointed?

How long have you known the consumer and in what capacity?

Why do you want to be appointed as authorized representative?

Is there a specific purpose for which you are seeking appointment? (i.e. decisions regarding living arrangements, work/day activities, etc.)

How long do you envision the need for this appointment?

Why is the consumer better off by having you as his/her authorized representative?
What skills will you bring?

Anything else you want us to know?

Name: _____

Address _____

City _____ CA Zip _____

Phone (_____) _____

Fax (_____) _____

E-mail _____

References:

_____ phone number

_____ phone number

Disposition

Dear Ms/Mr

You have requested appointment as Authorized Representative for _____ in accordance with WIC Section 4548 (d) (1).

Section 4548 (d) (1) reads as follows:

The area board shall have the authority to pursue legal, administrative, and other appropriate remedies to ensure the protection of the legal, civil, and service rights of persons who require services or who are receiving services in the area. In carrying out this responsibility, area boards may appoint a representative to assist the person in expressing his or her desires and in making decisions and advocating his or her needs, preferences, and choices, where the person with developmental disabilities has no parent, guardian, or conservator legally authorized to represent him or her and the person has either requested the appointment of a representative or the rights or interests of the person, as determined by the area board, will not be properly protected or advocated without the appointment of a representative.

Authorized representatives have the duty to assist the person with developmental disabilities in expressing his/her desires and in making decisions and advocating for their needs, preferences and choices but do not have the authority to make decisions for the consumer or to sign the IPP on behalf of the consumer (WIC 4646(g)).

Please fill out the enclosed questionnaire and return it to Area Board _____ or fax it to _____. Please include two references of people who understand your interest in becoming the representative for the above consumer.

Thank you very much,

Executive Director

**APPOINTMENT OF REPRESENTATIVE
PURSUANT TO WELFARE & INSTITUTIONS CODE
SECTION 4548 (d)(1)**

Re: xxxxxxxxxxxxx
D.O.B.: xxxxxxxx

Area Developmental Disabilities Board ____ recognizes the need to assist _____ in expressing his desires and making decisions and advocating his needs, preferences and choices at related to services from the Regional Center.

Pursuant to Welfare and Institutions Code Section 4548(d)(1), Area Board _____ appoints _____ as the Authorized Representative to assist _____ in expressing his desires and in making decisions and advocating his or her needs, preferences, and choices, regarding services and supports provided by the regional center. (This authorized representative is for the limited purpose of _____)

This appointment is effective from _____ to _____.

Executive Director

cc: Client
Authorized Representative
SARC

Important Words to Know About How Meetings are Run

Abstain	Choosing not to vote on something.
Action	Making a decision about something.
Adjourn	End the meeting.
Agenda	The plan for what will be talked about and voted on at the meeting.
Amend	Change
Appoint	Choose a person to do something.
Approve	Give official OK.
Aye	A vocal "yes" vote.
Bylaws	A set of rules which a board made up for its members to follow.
Call for the Question	Ask that a motion be voted on.
Chair	The leader of the group.
Confidential	Private, not to be told to anyone outside of the group.
Elected	Chosen by a vote.
"Put on" the Floor or Table	Present an issue to discuss.
Issues	Important matters, things that you are concerned about.
Minutes	Written record of what happened at the meeting.
Motion	Ideas or question that must be voted on.
Noe or Nay	A vocal "no" vote.
Opinion	Way you think or feel about something.
Out of Order	Chair/leader asks a member to stop talking about things that do not relate to the motion.
Policy	Defined written methods to guide decision making for an organization.
Roll Call	Taking attendance.
Second	When someone else thinks that a certain motion should be voted on.
Tabled	Discussion on a motion is put off until a later time.

Board Member Code of Ethics

As a Member of the Board Team, I will:

- listen carefully to other Board Members.
- respect the ideas of other Board Members.
- respect and support the decisions made by the Board.
- remember that the Board only has power when it has legal/official meetings.
- learn about the things with which the Board has to address.
- be part of the Board and Committee Meetings, as appropriate.
- let the Board know about any problems/concerns about services for persons with developmental disabilities.
- try to learn what types of services and supports Consumers need.
- tell the Executive Director or the Chairperson if someone in the community has a complaint about Area Board VII or the developmental disabilities service system.
- make sure the Executive Director does his/her job well.
- always work to learn how to be a better Board Member.
- tell the Board when I have a conflict of interest and will not vote or talk about issues that deal with that conflict.

As a Member of the Board Team, I will not:

- criticize other board Members or their opinions in or out of Board Meetings.
- use the Area board to get something special for me, my friends, or my relatives.
- talk to others about things that the Board discusses in an Executive (closed) Session.
- before any meeting promise to vote a certain way on any issue being considered for action.
- interfere with how the Executive Director does his/her job on a daily basis nor will I damage his/her relationship with staff.

Board Member's Signature

Date

NEPOTISM IN EMPLOYMENT POLICY

AN AREA BOARD 7 EMPLOYEE MAY NOT DIRECTLY INFLUENCE NOR INDIRECTLY INFLUENCE ISSUES RELATING TO THE EMPLOYMENT, OR THE TERMS AND CONDITIONS OF EMPLOYMENT OF A PERSON WHO IS A MEMBER OF THE EMPLOYEE'S FAMILY, WITH WHOM HE OR SHE SHARES A HOUSEHOLD, OR WITH WHOM HE OR SHE HAS A PERSONAL RELATIONSHIP.

FAMILY MEMBERS: INCLUDES MOTHER, FATHER, CHILDREN, SISTER, BROTHER, SPOUSE, ANY STEP-RELATION, DOMESTIC PARTNER, GRANDPARENTS, UNCLES, AUNTS, AND COUSINS, AND IN-LAWS OF THE SAME RELATION AS ANY OF THE FORGOING.

HOUSEHOLD: INCLUDES ANYONE WITH WHOM THE EMPLOYEE SHARES A HOUSE, APARTMENT, OR OTHER LIVING ARRANGEMENTS.

PERSONAL RELATIONSHIP: INCLUDES A ROMANTIC/INTIMATE RELATIONSHIP OR OTHER RELATIONSHIP IN WHICH THERE IS A STRONG BOND BETWEEN THE INDIVIDUALS.

RATIONALE FOR POLICY/PURPOSE

AREA BOARD 7 IS COMMITTED TO THE HIGHEST STANDARDS OF CONDUCT AND EXPECTS ALL MEMBERS OF ITS STAFF TO ADHERE TO THEM. STAFF OF AREA BOARD 7 MUST AVOID CONFLICTS OF INTEREST, SITUATIONS THAT MIGHT BE PERCEIVED OF AS CONFLICTS OF INTEREST, OR SITUATIONS THAT MIGHT IMPAIR OBJECTIVE JUDGEMENT.

ADOPTED 8/9/2011

Section 3. State Council on Developmental Disabilities



2012-2016 State Plan

Introduction

State Councils on Developmental Disabilities are funded by the Administration on Developmental Disabilities (ADD) under federal law 42 USC 15021 SEC. 121 to “engage in advocacy, capacity building, and systemic change activities that contribute to a coordinated, consumer- and family-centered, consumer- and family-directed, comprehensive system of community services, individualized supports, and other forms of assistance that enable individuals with developmental disabilities to exercise self-determination, be independent, be productive, and be integrated and included in all facets of community life.”

State Councils on Developmental Disabilities (SCDD) develop 5 year State Plans which identify goals and objectives that fall under one or more federal areas of emphasis: quality assurance, education and early intervention, child care, health, employment, housing, transportation, recreation, and other services available or offered to individuals in a community, including formal and informal community supports that affect their quality of life.

California is the most diverse and populous state in the nation. The state encompasses vast rural and agricultural areas that are sparsely populated as well as densely populated metropolitan areas, including Los Angeles, with over 3 million residents. Culturally and ethnically, there is no majority group in the state but a great variety of cultures, ethnic and racial groups. Over 200 different languages are spoken in California, with large populations of households having limited English proficiency.

Because of the vast size, complexity, and diversity of the State of California, it is critical to engage local communities in the development and implementation of the State Plan. The California SCDD is unique in having a network of 13 regional offices, known as the Area Boards on Developmental Disabilities. The Council, in concert with its area boards, has engaged the

local communities in initiating planning for the 2012-2016 State Plan over the past year. This entailed a community-based public process that enabled the Council to develop local goals and objectives based on the State Plan requirements, essentially building the State Plan from the ground up. These local plans are the basis for the California State Plan which also incorporates statewide system change projects. By developing the State Plan in a locally responsive manner, the SCDD believes that its goals, objectives and priorities will more effectively reflect the cultural, ethnic and language diversity of communities at both a local and state level.

The Local Plans, goals and objectives for each local area board are an appendix to the State Plan and give details as to how statewide goals will be implemented in the local area based on local needs and resources.

2012-16 STATE GOALS

Goal #1

Individuals with developmental disabilities have the information, skills, opportunities and support to advocate for their rights and services and to achieve self determination, independence, productivity, integration and inclusion in all facets of community life.

Areas of Emphasis:

☒Quality ☐Education and Early Intervention
☐Health ☐Employment ☐Housing ☐Formal
and Informal community supports ☐Cross
cutting

Objectives

1a) The Council will promote the stability and expansion of a statewide self-advocacy network through financial and in-kind support, which includes ensuring that local delegates are able to participate effectively in statewide meetings and events.



1b) The Council will strengthen existing self-advocacy groups and promote establishment of new groups at the local level. At least 23 new self-advocacy groups will

be developed in new geographic areas. The number of self-advocates who participate in self-advocacy efforts as a result of this support will increase by 370 statewide annually.



1c) The Council will help to educate self-advocates so they are better able to assert their human, service and civil rights, prevent abuse, neglect, sexual and financial exploitation and be better informed on issues that affect them. At least 2800 self-advocates will be reached annually.

1d) The Council will collaborate with at least 31 local and statewide groups to

promote and support the efforts of cross-disability and youth disability organizations to expand and strengthen their leadership network.

1e) At least 125 individuals with developmental disabilities will be supported and trained to become effective trainers of other individuals with developmental disabilities who in turn, will assume leadership roles.

Goal #2:

Individuals with developmental disabilities and their families become aware of their rights and receive the supports and services they are entitled to by law across the lifespan, including early intervention, transition into school, education, transition to adult life, adult services and supports, and senior services and supports.

Areas of Emphasis:

☒Quality ☒Education and Early Intervention ☒Health ☒Employment ☐Housing ☒Formal and Informal community supports ☐Cross cutting



Objectives

2a) On an annual basis, the Council will provide advocacy regarding education, early intervention, regional center (community) services and other services and supports to at least 1,700 individuals and/or families, at least 300 of who are non-English speaking or limited English proficiency.

2b) Individuals with developmental disabilities, their families and their support

and/or professional staff will increase their knowledge and skills so as to effectively access needed educational and/or community-based services through at least 225 trainings, conferences, workshops, webinars, and/or resource materials developed by the Council on topics such as rights under IDEA, rights under California's Lanterman Act etc. on an annual basis.



2c) The Council will participate in cross-training, outreach, resource fairs and other forms of collaboration with a minimum of 80 local schools, Special Education Local Plan Areas (SELPA), Community Advisory Committee (CAC)s, Family Resource Centers, provider organizations and others in order to improve outcomes for youth and adults with developmental disabilities

2d) The Council will collaborate with federal developmental disability partners and other key stakeholders to protect the rights of residents in Developmental Centers and other large facilities. The Council will be involved in the planning and implementation of any closure process of a Developmental Center.

Goal #3:

Individuals with developmental disabilities and their families express the degree to which they are satisfied with their services and the extent to which they feel their needs are being met.

Areas of Emphasis:

☒Quality ☐Education and Early Intervention ☐Health ☐Employment ☐Housing ☐Formal and Informal community supports ☐Cross cutting

Objectives

3a) The Council will implement the Quality Assurance Program, in accordance with the requirements of the Council's contract with the Department of Developmental Services and participate in analyses of its findings and implications for system improvement. At least 8400 surveys will be completed.

3b) On a statewide and local level, the Council will advocate and promote innovation in service delivery including but not limited to self determination.



Goal #4

Public safety agencies, other first responders and the justice system get information and assistance to be knowledgeable and aware of the needs of individuals with developmental disabilities so they can respond appropriately when individuals with developmental disabilities may have experienced abuse, neglect, sexual or financial exploitation or violation of legal or human rights.

Areas of Emphasis:

☒Quality ☐Education and Early Intervention ☐Health ☐Employment ☐Housing ☒Formal and Informal community supports ☐Cross cutting

Objectives

4a) The Council will maintain or develop collaborative relationships with at least 20 local law enforcement agencies and others to improve the awareness and education of public safety personnel and the justice system on the unique needs and contributions of individuals with developmental disabilities.



Goal #5

Individuals with developmental disabilities and their families get the information to be prepared for emergencies.

Areas of Emphasis:

☒Quality ☐Education and Early Intervention ☐Health ☐Employment ☐Housing ☐Formal and Informal community supports ☐Cross cutting

Objectives

5a) At least 400 individuals and families will be prepared in case of an emergency through the efforts of the Council in collaboration with others.

Goal #6

Young adults with developmental disabilities and their families get the information and support to be prepared for and experience a successful transition to adult life.



Areas of Emphasis:

☒Quality ☒Education and Early Intervention ☐Health ☐Employment ☐Housing ☐Formal and Informal community supports ☐Cross cutting

Objectives

6a) At least 450 students with developmental disabilities and their families will receive information, advocacy and support during transition to adult life.

Goal #7

Children birth to 3 who are at risk of or have a developmental delay and their families receive the early intervention services they need to achieve their potential.

Areas of Emphasis:

☒Quality ☒Education and Early Intervention ☐Health
☐Employment ☐Housing ☐Formal and Informal community supports ☐Cross cutting

Objectives

7a) At least 235 parents of young children will learn to navigate the service system and understand their rights through trainings and materials presented by the Council.

7b) Three hundred and fifty families of young children who experience barriers to accessing early intervention services and child welfare workers, medical personnel and others who serve them will receive technical assistance, information and advocacy through the Council in partnership with Family Resource Centers and others.



Goal #8

The State of California will adopt an Employment First policy which reflects inclusive and gainful employment as the preferred outcome for working age individuals with developmental disabilities.

Areas of Emphasis:

☐Quality ☐Education and Early Intervention ☐Health ☒Employment ☐Housing ☐Formal and Informal community supports ☐Cross cutting

Objectives

8a) The State Council's Employment First Committee will continue to identify strategies and monitor progress towards implementation of the employment first policy

Goal #9

Working age adults with developmental disabilities have the necessary information, tools and supports to succeed in inclusive and gainful work opportunities



Areas of Emphasis:

- ☐ Quality ☐ Education and Early Intervention ☐ Health
- ☒ Employment ☐ Housing ☐ Formal and Informal community supports
- ☐ Cross cutting

Objectives

9a) The Council will collaborate locally with 130 collaborators to expand employment and self employment opportunities for

individuals with developmental disabilities. Seventy five people will be employed as a result.

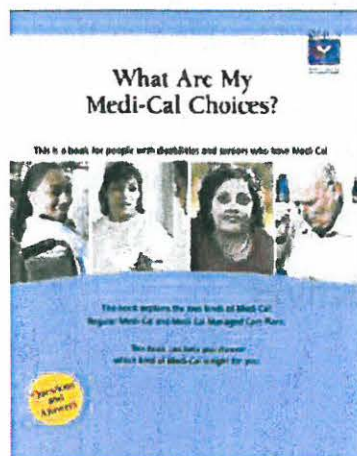
9b) The Council collaborates with colleges, federal partners and others to develop and expand post-secondary educational (PSE) options, work training programs, national service, internships and other opportunities that lead to inclusive and gainful employment. Forty five collaborations will take place at the local and regional level.

9c) Two thousand three hundred individuals with developmental disabilities, their families and others who support them are informed about the benefits and opportunities of employment through trainings, workshops and conferences.

Goal #10

Individuals with developmental disabilities understand their options regarding health services and have access to a full range of coordinated health, dental and mental health services in their community.

Areas of Emphasis:



☐Quality ☐Education and Early Intervention ☒Health ☐Employment ☐Housing ☒Formal and Informal community supports ☐Cross cutting

Objectives

10a) At least 200 self-advocates, family members and advocates will receive information/training on Medi-Cal (Medicaid) managed care and the implementation of the 1115 waiver and other health related initiatives, including the availability of alternative sources for free or low cost health care services.

10b) The Council will monitor the transition to Medi-Cal (Medicaid) managed care at the county level, advocate and assist 25 individuals in the process so as to ensure effective access to needed services.

Goal #11

Individuals with developmental disabilities have access to affordable and accessible housing that provides control, choice and flexibility regarding where and with whom they live.

Areas of Emphasis:

☐Quality ☐Education and Early Intervention ☐Health ☐Employment ☒Housing ☐Formal and Informal community supports ☐Cross cutting

Objectives:

11a) The Council will participate in regional centers' resource development and implementation of their Community Placement Plan to facilitate the movement of residents of developmental centers into community based living arrangements of their choosing

11b) Five hundred twenty individuals with developmental disabilities and their families will receive information on available housing options

Goal #12

Affordable and accessible housing units are developed in local communities to expand housing options for individuals with developmental disabilities.

Areas of Emphasis:

☐Quality ☐Education and Early Intervention ☐Health ☐Employment ☒Housing ☐Formal and Informal community supports ☐Cross cutting

Objectives



12a) The Council will collaborate with at least 10 local non-profit housing corporations to monitor and influence the housing plans of municipalities to reflect the needs of individuals with developmental disabilities.

12b) The Council will identify and advocate for legislative and regulatory changes designed to increase the availability of affordable housing, including the opportunity for home ownership by individuals with developmental disabilities.

12c) The Council will publicize and advocate against incidents of “not in my back yard” (NIMBY). The Council will collaborate with federal partners, advocates, public interest law firms, and others to ensure that the media and government officials are aware of these incidents

Goal #13

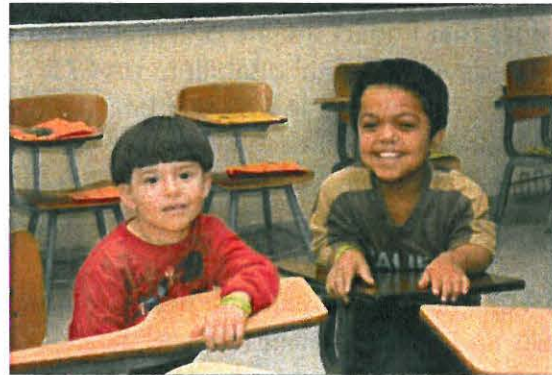
Individuals with developmental disabilities and their families have access to community based services and supports available to the general population (such as recreation, transportation, childcare, etc.) that enable them to live productive and inclusive lives.

Areas of Emphasis:

☐Quality ☐Education and Early Intervention
☐Health ☐Employment ☐Housing ☒Formal and Informal community supports ☐Cross cutting

Objectives

13a) The Council will collaborate with 150 local community agencies and organizations –including child care, recreation, transportation and others - to protect the rights of individuals with developmental disabilities and ensure their inclusion in the community.



Goal #14

Public policy in California promotes the independence, productivity, inclusion and self determination of individuals with developmental disabilities and their families

Areas of Emphasis:

☐Quality ☐Education and Early Intervention ☐Health ☐Employment ☐Housing ☐Formal and Informal community supports ☒Cross cutting



Objectives

14a) The Council will take a position on proposed state and federal legislation and proposed regulations that impact people with developmental disabilities, will communicate those positions to legislators and their staff, and will disseminate this information to all interested parties.

14b) One hundred twenty five Legislators and local officials will be educated and informed on

issues that impact the life of individuals with developmental disabilities on 675 occasions. Legislative staff will be encouraged to utilize the expertise of the Council on issues that impact the community.

14c) The Council will use media, internet, arts and entertainment and social networking to educate the general public about individuals with developmental disabilities. There will be at least 40 media contacts.



Goal #15

Individuals with developmental disabilities and their families have access to information and resources in ways that reflect their language and cultural preferences.

Areas of Emphasis:

☐Quality ☐Education and Early Intervention ☐Health ☐Employment ☐Housing ☐Formal and Informal community supports ☒Cross cutting

Objectives

15a) Materials developed by the Council will be translated into threshold and plain languages.



SERVICES AND SUPPORTS FOR INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES IN CALIFORNIA

**A Briefing Paper for
Governor Jerry Brown**

**Submitted by the State Council on Developmental
Disabilities**

February 2011

Table of Contents

INTRODUCTION.....	1
WHO ARE INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES?.....	1
GUIDING PRINCIPLES.....	1
PRIORITY ISSUES FOR PEOPLE WITH DEVELOPMENTAL DISABILITIES	2
Employment.....	2
Consumer/Family Directed Options	3
Housing.....	3
Self-Advocacy	3
Inclusion.....	3
Education	3
Health Care.....	4
Transportation.....	4
Victims of Crime.....	4
Quality of Services and Supports.....	5
System Transparency/Oversight and Accountability	5
Leadership	5
SYSTEM OF SERVICES AND SUPPORTS.....	6
BRIEF HISTORY OF THE SYSTEM	12
CONCLUSION	16

"The State of California accepts a responsibility for persons with developmental disabilities and an obligation to them which it must discharge."

INTRODUCTION

Welfare and Institutions Code, Division 4.5, Chapter 1-14 and Division 4.7 establishes California's commitment to providing services and supports to individuals with developmental disabilities in order that they may to approximate the pattern of everyday living available to people without disabilities of the same age, make choices in all life areas, have opportunities to be integrated into the mainstream of life in their home communities, and be more independent and productive. This division is commonly known as the Lanterman Developmental Disabilities Services Act (Lanterman Act).

WHO ARE INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES?

In California, individuals with developmental disabilities are those whose disability originate before age 18, continues, or can be expected to continue, indefinitely, and constitutes a substantial disability for that individual. This includes people with mental retardation, cerebral palsy, epilepsy, and autism, as well as individuals that have conditions found to be closely related to mental retardation or to require treatment similar to that required for individuals with mental retardation, but shall not include other handicapping conditions that are solely physical in nature.¹ The system also serves infants and toddlers (age 0 to 36 months) who are at risk of having developmental disabilities or who have a developmental delay.²

Currently, California serves approximately 250,000 individuals meeting this definition, and provides services and supports to families of infants, children and adults who live in their family homes.

GUIDING PRINCIPLES

The system of services and supports for persons with developmental disabilities in California functions under a set of guiding principles that are used to measure both the direction and outcome of activities and developments throughout the system to keep the system focused and effective. These principles are reflected in the statutory scheme of the Lanterman Act, through

¹ California Welfare and Institutions Code, section 4512(a)

² California Government Code, section 95014

Consumer/Family Directed Options- People with disabilities and their families are best suited to identify and understand their unique needs and how best to address those needs. Rather than force people to select from a menu of services and supports, California should develop options for self-determination/individual choice budgeting that provides resources for consumers and families to use in securing the services and supports that best meet their needs and reduce reliance on public social services.

Housing- California must continue to enhance community integrated living options for people with developmental disabilities through improved access to housing subsidy programs; neighborhood education to reduce discrimination; and development of affordable, accessible, and sustained housing options.

Self-Advocacy- People with developmental disabilities must be given the opportunity and support to assume their rightful leadership in the system and society. This can be enhanced through training, use of plain language materials, support and inclusion in public-policy-making activities.

Inclusion- People with developmental disabilities must have access to community opportunities such as recreation, education, and socialization. To increase these opportunities, sites must be accessible and programs adapted to accommodate this population. Local services must be encouraged and expected to outreach to this population, thus reducing their reliance segregated/expensive options.

Education- The federal Individuals with Disabilities Education Act (IDEA) requires that children with disabilities be provided with free appropriate public educational services that prepare them for further education, employment and independent living. The range of services under the Act includes early intervention and related services needed to allow the child to benefit from the educational instruction. Regulations implementing the Act state that "...to the maximum extent appropriate, children with disabilities including children in public or private institutions or care facilities, are educated with children who are *nondisabled*; and special classes, separate schooling or other removal of children with disabilities from regular educational environment occurs only if the nature or severity of the disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily."

California continues to educate some students with disabilities in segregated settings, thus reducing their potential for a fully included life as well as ability to move forward to post-secondary education

related to the quality of victim and witness information, there exists an attitude that individuals with developmental disabilities cannot actively and meaningfully participate in court issues, thus crimes against them are often not prioritized or overlooked. The law enforcement and the judicial systems need training in how to identify and pursue cases involving crime victims with disabilities and must provide the same level of due process protections to these victims as with all other people. Concurrently, individuals with disabilities need to be trained and supported in how to avoid becoming victims of crime and to understand how their participation in the identification and prosecution phases impact the outcome.

Quality of Services and Supports- A \$4 billion dollar commitment from the State of California must come with assurances that the taxpayer monies are be used as envisioned in law and to achieve outcomes needed for individuals with developmental disabilities and their families. Outcomes and satisfaction need measured through a variety of approaches that involve individuals, families, service providers, and regional centers/developmental centers and need to be followed with either individual or systemic recommendations for changes where outcomes or satisfaction is inadequate.

System Transparency/Oversight and Accountability- While the overall design of the developmental services system in California is meant to be responsive and accountable to individuals and families through local implementation, the growth of the system over the past 40 years has created a need for additional transparency to the public and oversight and direction by the State of California. The design of this increased transparency and oversight should be developed collaboratively with the system partners to assure a collective understanding of the purpose, authority, and the tools to be used in the process and what actions to any negative outcomes could be expected.

Leadership- As with all new administrations, positioning of leadership is a key element to successful service delivery of services and accountability for the use of public funds. The elements of leadership desired in the developmental services system by the Council are: (1) collaboration with all parts of the system in a equitable manner; (2) willingness to recognize and address concerns; (3) knowledge about and commitment to individuals and their families as the core reason for the system to exist; (4) innovative and supportive of system change toward the improvement of outcomes and satisfaction; (5) honesty; and (6) accountability.

information required by federal law within specified priority areas, and includes the Council's determination of California's priority issues and resulting Council goals and objectives for the time period covered by the Plan. Much of the Plan is developed by input from the community and implemented via the Council's Area Boards on Developmental Disabilities.

Councils on Developmental Disabilities are established in each state through the federal Developmental Disabilities Assistance and Bill of Rights Act. The Act also creates other federal partners: state protection and advocacy systems, university centers for excellence, and projects of national significance.

Disability Rights California (formerly Protection and Advocacy Inc.)

Disability Rights California (DRC) is a nonprofit agency working since 1978 to advance human and legal rights of Californians with disabilities. DRC provides legislative advocacy, files class-action court suits and collaborates with other groups.

DRC strives to create a barrier-free, inclusive society that values diversity and each individual. DRC's services are available throughout the state and they assist tens of thousands of people with disabilities each year.

DRC has more than 200 staff and Board members with a wide array of legal and advocacy expertise. DRC has developed innovative programs for Californians with developmental, psychiatric, sensory, learning and physical disabilities and they collaborate on the state and federal levels with other advocacy groups throughout the U.S.

University Centers for Excellence in Developmental Disabilities (UCEDD)

California currently has three University Centers for Excellence in Developmental Disabilities which collaborate with individuals with developmental disabilities and their families to improve quality of life and community inclusion. UCEDDs accomplish these goals through advocacy, community partnerships, interdisciplinary training, and the translation of research into practical applications.

Supporting children, young adults and adults with developmental disabilities and mental health, and physical health needs;

Forging new alliances between individuals with disabilities, agencies and policymaking bodies;

Expanding the arts and cultural community's capacity to include individuals with disabilities and support opportunities for individuals with disabilities to pursue careers in the arts;

Facilitating the active engagement of people with disabilities as service members and volunteers in all levels of national and community service; and

Examining the impact of national and state policies on people with disabilities and their families.

Department of Rehabilitation

The Department of Rehabilitation (DOR) works in partnership with consumers and other stakeholders to provide services and advocacy resulting in employment, independent living and equality for individuals with disabilities. It delivers effective vocational rehabilitation services, and other programs and services in an efficient, caring, professional, and prompt manner as well as services regarding telecommunications, sensory and other technological aids and devices, as well as rehabilitation engineering services to customize and adapt equipment and devices.

DOR offers many services to assist consumers to reach their employment goal. Services include, but are not limited to:

- Counseling and guidance,
- Referrals and assistance to get services from other agencies,
- Job search and placement assistance,
- Vocational and other training services,
- Evaluation of physical and mental impairments,
- On-the-job or personal assistance services,
- Interpreter services,
- Rehabilitation and orientation/mobility services for the deaf and the blind,
- Occupational licenses, tools, equipment, initial stocks, and supplies,
- Technical assistance for self-employment,
- Rehabilitation assistive technology,
- Supported employment services,
- Services to the family,

support activities and in collaboration with local health departments and other organizations throughout the State.

Department of Aging

The Department of Aging (CDA) administers state and federally funded home and community-based programs for older adults and some younger adults with disabilities, including developmental disabilities. The Department's Office of the State Long-Term Care Ombudsman is under state and federal mandate to respond to reports of abuse in 24-hour care facilities. To better meet the needs of an aging population with developmental disabilities, interagency agreements exist among the 33 Area Agencies on Aging and the 21 Regional Centers.

Department of Mental Health

Responsibility for children's mental health services lies with the Department of Mental Health (DMH). Programs for children include a variety of services including the Children's System of Care for Seriously Emotionally Disturbed (SED) children; and the state's Early Mental Health Initiative that serves young school age children in kindergarten through third grade (K-3) who are identified as having moderate school adjustment problems.

Department of Housing and Community Development

The Department of Housing and Community Development (HCD) guides supports and directs the public and private sector in the provision of safe affordable housing for Californians in need. Eligible individuals with developmental disabilities, or projects that serve them, are eligible to apply for many of the programs.

Department of Fair Employment and Housing

The Department of Fair Employment and Housing (DFEH) is charged with safeguarding against discrimination in the workplace or place of residence. As such, they are one of the entities who handle certain types of Americans with Disabilities Act (ADA) compliance issues.

Department of Transportation

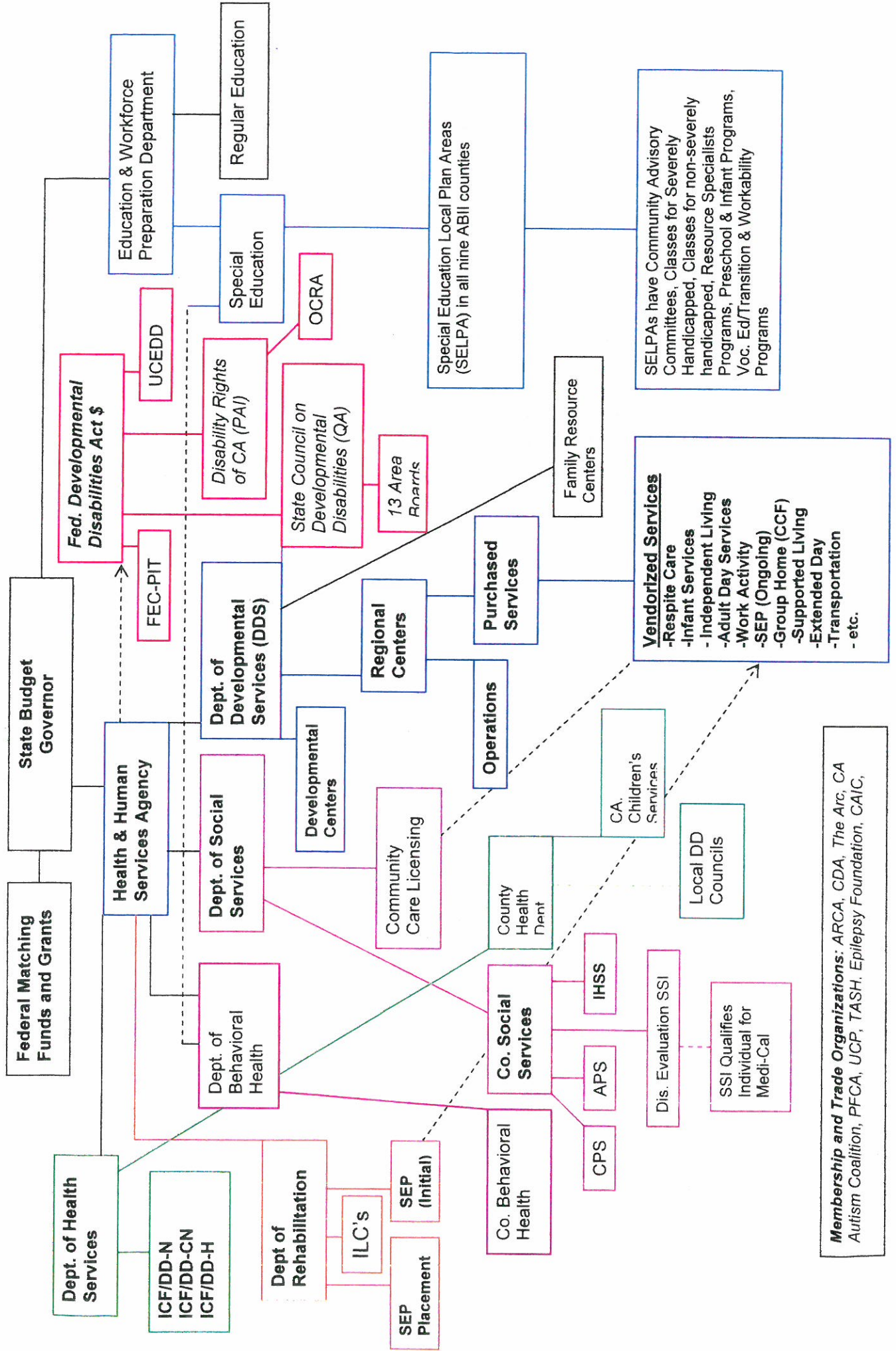
The Department of Transportation (CALTRANS) has responsibility for implementation of the Federal Transit Authority in California. This includes the Section 5310 program for the purchase of vehicles and related equipment for specialized transportation needs of the elderly and persons with disabilities.

Many local governmental and private agencies and organizations are also involved in the service system for people with developmental disabilities. In

- 1976** Changes to the Lanterman Developmental Disabilities Services Act established the right to treatment and habilitation services for persons with developmental disabilities; includes "handicapping conditions found to be closely related to mental retardation or to require treatment similar to that required for mentally retarded individuals, but shall not include other handicapping conditions that are solely physical in nature." An individualized planning process replaced the problem-oriented record. *The 1975-76 regional center budget was \$47,980,527. They served 33,833 individuals. The state hospital population is approximately 11,000.*
- 1978** California created the Department of Developmental Services.
- 1979** The system grew from 2 to 21 regional centers serving nearly 50,000 individuals. The state hospital population was approximately 9,000.
- 1981** In the case of *In Re Hop*, the California Supreme Court ruled that any adult with developmental disabilities who has been placed in a state hospital is entitled to a judicial review to determine whether he or she should remain institutionalized.
- 1983** California was approved for federal financial participation in the Home and Community Based (Medicaid) Waiver Program partially offsetting the cost of services of a select group of individuals who were placed from the state hospital or who have been "diverted" from institutionalization.
- 1985** In the *Association for Retarded Citizens v. California Department of Developmental Services et al.*, the California Supreme Court ruled that the Lanterman Act "defines a basic right and a corresponding basic obligation . . . [T]he right which it grants to the developmentally disabled person is to be provided with services that enable him to live a more independent and productive life in the community; the obligation which it imposes on the state is to provide such services."
- 1989** Regional centers are served 92,000 individuals and their families. The state hospital (now referred to as State Developmental Center) population was approximately 6,700.
- 1992** Senate Bill 1383 (McCorquodale) expanded the range of services and supports available to consumers and families. The Lanterman Act established the right of consumers to make choices about where and with whom they would live, their relationships, the way they spend their time, and their future.

- 2004** The closure of Agnews Developmental Center is delayed from July 2005 to July 2006. The following year's budget delays the closing an additional 12 months, to July 2007. The Legislature enacted the Family Cost Participation Program, requiring families of minors living at home to share the cost of certain services. Cost-sharing requirements apply to respite, day care and camp services.
- 2005** Regional centers served more than 200,000 individuals at an annual cost of nearly \$3 billion. Five developmental centers served approximately 3,000 people. An additional 90 people were served in the two smaller state operated community facilities serving people with significant behavioral and forensic needs.
- 2006** The Senate issued Senate Concurrent Resolution 115 (Chesbro) reaffirming the Legislature's commitment to the system of community services for people with developmental disabilities. More than 210,000 people are served by 21 regional centers at an annual cost of \$4 billion. Less than 3,000 people lived in the five state developmental centers.
- 2007** Nearly 215,000 people were served at a cost of \$4.3 billion. Approximately 2610 people lived in state developmental centers. Agnews Developmental Center in process of closing.
- 2008** Approximately 232,000 people were served at a cost of \$4.6 billion. Agnews closure date is set at June 30, 2008 and approximately 2400 people lived in state developmental centers.
- 2009** Approximately 240,000 people were served at a cost of \$4.7 billion. The Governor's Budget proposed a 3 percent payment reduction for regional centers and service providers for a savings of \$100 million, however by May the proposed budget called for the Department to work with stakeholders to achieve a total \$334 million General Fund savings. Those savings included garnering additional federal funds for day and transportation, and targeted case management services provided to residents of intermediate care facilities, quality assurance fees, continued exemptions to consumer-to-service coordinator ratios, reductions in respite care and social recreation services, reduced days of services by increasing number of required holidays, etc. The Department established a Prevention Program for infants and toddlers who do not meet the federal Early Start Program or Lanterman Act eligibility requirements and current or prospective infants and toddlers who are 'at risk' for developing a developmental disability are not eligible for Early Start services. Sierra Vista State Operated Community Facility was scheduled for closure.

The California Service Systems for Persons with Developmental Disabilities



Acronyms - California Service System for Person w/ DD

APS – Adult Protective Services
ARCA – Association of Regional Center Agencies
CPS – Children’s Protective Services
CCF – Community Care Facilities
CDA – California Disability Association
CAIC - California Alliance for Inclusive Communities
FEC-PIT – Family Empowerment Centers – Parent Information & Training
ICF/DD-CN – Intermediate Care Facilities/Continuous Nursing
ICF/DD-H - Intermediate Care Facilities/Developmentally Disabled - Habilitative
ICF/DD-N - Intermediate Care Facilities/Developmentally Disabled - Nursing
IHSS – In Home Support Services
ILC’s – Independent Living Centers
OCRA – Office of Clients Rights Advocacy
PAI – Protection & Advocacy Incorporated
PFCA – People First of California
QA – Quality Assurance
SELPA – Special Education Local Plan Area
SEP – Supported Employment Programs
SSI – Social Security Income
TASH – The Association of Severely Handicapped
UCEDD – University Centers of Excellence Developmentally Disabled
UCP – United Cerebral Palsy

Glossary of Terms, Phrases & Acronyms Used in the California Disability Services Systems

Provided by

**The Senate Select Committee on Autism
& Related Disorders**



DARRELL STEINBERG
CHAIR

MEMBERS

ELAINE K. ALQUIST
TOM BERRYHILL
ELLEN CORBETT
LOU CORREA
KEVIN DE LEÓN
MARK DESAULNIER
BOB DUTTON
BILL EMMERSON
NOREEN EVANS
JEAN FULLER
TED GAINES
ED HERNANDEZ
MARK LENO
CAROL LIU
ALEX PADILLA
FRAN PAVLEY
CURREN D. PRICE, JR.
JUAN VARGAS
LOIS WOLK

STATE CAPITOL
ROOM 415
SACRAMENTO, CA 95814
TEL (916) 651-4189
FAX (916) 327-8867

LOUIS A. VISMARA, MD
POLICY CONSULTANT

MARK A. TEEMER, JR.
ASSISTANT

WWW.SENATE.CA.GOV/AUTISM

California Legislature
Senate Select Committee
on
Autism & Related Disorders



FOREWORD

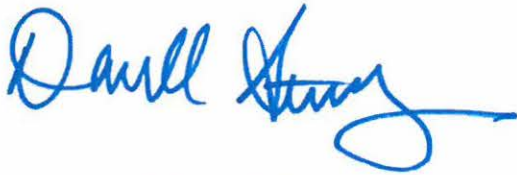
Individuals with autism and other developmental disabilities are served by a complex and wide array of services and programs. At times, the terminology and jargon associated with these supports can be rather mystifying. Therefore, The Senate Select Committee on Autism & Related Disorders is pleased to provide an overview of the terms, phrases, and acronyms that are frequently used in discussing systems of care for autism and other developmental disabilities.

This compendium is dedicated to the numerous individuals with autism and their families who have contributed to the efforts of the Senate Select Committee on Autism & Related Disorders. Their tireless efforts and advocacy have inspired and truly energized the work of this committee. On behalf of all of my fellow Senators, please accept our deepest appreciation and admiration.

I want to thank all of the Regional Autism Taskforce members who have supported the work of our committee during the past three years. I am grateful to Dr. Janis White, Dr. Richard Rosenberg, Ms. Linda O'Neal and Ms. Sandi Soliday who spearheaded this project. With deep appreciation, I also acknowledge the important contributions of the members of the Autism Employment Ad-Hoc Workgroup, the Alameda County Developmental Disabilities Planning and Advisory Council, and the staff support of special assistant to the committee Mr. Mark Teemer Jr.

Please know that the Senate Select Committee is dedicated to improving the lives of individuals with autism and related disorders. Additional information about the committee and its members is available at www.senate.ca.gov/autism . Do not hesitate to contact us if we can provide future assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrell Steinberg", with a stylized flourish at the end.

DARRELL STEINBERG

President pro Tempore

Chairman, Senate Select Committee on Autism & Related Disorders

A Glossary of Terms and Phrases

Abilify – The brand name for aripiprazole, an antipsychotic medication approved by the FDA in 2009 for treatment of irritability, mood disturbance, and aggression in children 6-17 years old with autism spectrum disorder. Also used for treatment of bipolar disorder and schizophrenia.

Accessibility - An architectural feature, which allows people who use wheelchairs to get in and around buildings. A building that is accessible is free of architectural barriers.

Accreditation - The process of assessing a service provider for compliance with a set of written quality standards for services that have been established by a recognized independent, non-profit organization whose goals are to enhance and ensure the quality of services in given service-delivery areas.

Accreditation Council on Services for People with Disabilities (The Accreditation Council) - A national organization that establishes standards to be met in the provision of services for individuals with developmental disabilities.

Adaptive Behavior - The ability of an individual to successfully function in his environment with responsibility and independence as expected by his age and cultural group.

Adderall - A medication made up of a combination of stimulants which is commonly used as part of a total treatment program to control Attention Deficit Hyperactivity Disorder (ADHD). Brand name for *amphetamine-dextroamphetamine*.

Adult Development Center - A day program that serves people who need assistance to learn basic self-help, communication and socialization skills for movement toward vocational independence. In practice, these programs are often segregated but need not to be.

Advocacy - Helping to represent the interests of another as if they were one's own. People who do this are known as advocates.

Age Appropriate - Consideration of the chronological age of the person in the use of activities, instructional locations and techniques.

Akathisia - Restlessness and possibly increased motor activity (which can be hard to judge in those who are already hyperactive); among the extrapyramidal side effects sometimes resulting from use of conventional antipsychotic medications.

Ambulatory - A person who can move about independently without mechanical assistance is a person who is ambulatory.